

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

9819 HOUSE HEALTH EDUCATION & SOCIAL SERVICES

HB

288

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. HB 288

Revision Date <u>1/27/00</u>	Dept. Affected <u>Public Safety</u>
Title <u>Children Witnessing Domestic Violence</u>	BRU <u>CDVSA</u>
Sponsor <u>Representative Kott</u>	Component: <u>CDVSA</u>
Requester <u>H. HES</u>	Component No. <u>521</u>

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING						
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

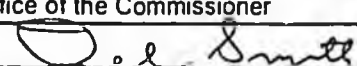
Estimate of any current year (FY2000) cost: 0.0

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill would not impact our budget.

Prepared by: <u>Royce Weller, Special Assistant</u>	Phone <u>465-4322</u>
Division <u>Office of the Commissioner</u>	Date/Time <u>1/28/00 12:00 PM</u>
Approved by: <u></u>	Date <u>1-30-00</u>
Agency <u>Commissioner Ronald L. Otte, Dept. of Public Safety</u>	

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SPONSOR STATEMENT

HB 288

"An Act relating to the creation of an aggravating factor for the commission of domestic violence in the physical presence of a child."

This bill lets the courts to be tougher on those having been convicted of domestic violence if they committed that crime with their children present. If passed, the criminal justice system would have a new tool to further Alaska's fight against domestic violence and child abuse.

HB 288 creates an aggravated factor when domestic violence is committed in the presence of children who are also household members of the perpetrator. Under current law, a person convicted on domestic violence charges is subject to Alaska's presumptive sentencing rules found in AS 12.55.125. Although the court is given guidelines, under AS 12.55.155, it may also consider factors that can mitigate or aggravate the severity of the crime and resulting sentence. Considering the totality of the factors, the court may adjust the sentence up to the maximum or down to the minimum term of imprisonment prescribed by presumptive sentencing laws.

What is an aggravating factor? It is an act or circumstance characterized by some unique feature that enhances the severity of crime. For example that may be what the intentions of the criminal were or it may be the special vulnerability of the victim. This bill would expand the list of aggravating circumstances to include the special vulnerability of children.

Domestic violence is a scourge all over our state and Alaskans are fighting back to protect the lives of the victims and the children involved. HB 288 takes us a step further by recognizing that even if a child is not on the receiving end of the violence, they are profoundly damaged when they become witnesses to parents and caregivers engaging in this abhorrent behavior.

Sec. 12.55.155. Factors in aggravation and mitigation.

(a) If a defendant is convicted of an offense and is subject to sentencing under AS 12.55.125 (c), (d)(1), (d)(2), (e)(1), (e)(2), (e)(4), or (i) and

(1) the presumptive term is four years or less, the court may decrease the presumptive term by an amount as great as the presumptive term for factors in mitigation or may increase the presumptive term up to the maximum term of imprisonment for factors in aggravation;

(2) the presumptive term of imprisonment is more than four years, the court may decrease the presumptive term by an amount as great as 50 percent of the presumptive term for factors in mitigation or may increase the presumptive term up to the maximum term of imprisonment for factors in aggravation.

(b) Sentence increments and decrements under this section shall be based on the totality of the aggravating and mitigating factors set out in (c) and (d) of this section.

(c) The following factors shall be considered by the sentencing court and may aggravate the presumptive terms set out in AS 12.55.125 :

(1) a person, other than an accomplice, sustained physical injury as a direct result of the defendant's conduct;

(2) the defendant's conduct during the commission of the offense manifested deliberate cruelty to another person;

(3) the defendant was the leader of a group of three or more persons who participated in the offense;

(4) the defendant employed a dangerous instrument in furtherance of the offense;

(5) the defendant knew or reasonably should have known that the victim of the offense was particularly vulnerable or incapable of resistance due to advanced age, disability, ill health, or extreme youth or was for any other reason substantially incapable of exercising normal physical or mental powers of resistance;

(6) the defendant's conduct created a risk of imminent physical injury to three or more persons, other than accomplices;

(7) a prior felony conviction considered for the purpose of invoking the presumptive terms of this chapter was of a more serious class of offense than the present offense;

(8) the defendant's prior criminal history includes conduct involving aggravated or repeated instances of assaultive behavior;

(9) the defendant knew that the offense involved more than one victim;

(10) the conduct constituting the offense was among the most serious conduct included in the definition of the offense;

(11) the defendant committed the offense pursuant to an agreement that the defendant either pay or be paid for the commission of the offense, and the

pecuniary incentive was beyond that inherent in the offense itself;

(12) the defendant was on release under AS 12.30.020 or 12.30.040 for another felony charge or conviction or for a misdemeanor charge or conviction having assault as a necessary element;

(13) the defendant knowingly directed the conduct constituting the offense at an active officer of the court or at an active or former judicial officer, prosecuting attorney, law enforcement officer, correctional employee, fire fighter, emergency medical technician, paramedic, ambulance attendant, or other emergency responder during or because of the exercise of official duties;

(14) the defendant was a member of an organized group of five or more persons, and the offense was committed to further the criminal objectives of the group;

(15) the defendant has three or more prior felony convictions;

(16) the defendant's criminal conduct was designed to obtain substantial pecuniary gain and the risk of prosecution and punishment for the conduct is slight;

(17) the offense was one of a continuing series of criminal offenses committed in furtherance of illegal business activities from which the defendant derives a major portion of the defendant's income;

(18) the offense was a felony

(A) specified in AS 11.41 and was committed against a spouse, a former spouse, or a member of the social unit comprised of those living together in the same dwelling as the defendant; or

(B) specified in AS 11.41.410 - 11.41.455 and the defendant has engaged in the same or other conduct prohibited by a provision of AS 11.41.410 - 11.41.460 involving the same or another victim;

(19) the defendant's prior criminal history includes an adjudication as a delinquent for conduct that would have been a felony if committed by an adult;

(20) the defendant was on furlough under AS 33.30 or on parole or probation for another felony charge or conviction that would be considered a prior felony conviction under AS 12.55.145 (a)(1)(B);

(21) the defendant has a criminal history of repeated instances of conduct violative of criminal laws, whether punishable as felonies or misdemeanors, similar in nature to the offense for which the defendant is being sentenced under this section;

(22) the defendant knowingly directed the conduct constituting the offense at a victim because of that person's race, sex, color, creed, physical or mental disability, ancestry, or national origin;

(23) the defendant is convicted of an offense specified in AS 11.71 and the offense involved the delivery of a controlled substance under circumstances manifesting an intent to distribute the substance as part of a commercial enterprise;

(24) the defendant is convicted of an offense specified in AS 11.71 and the

offense involved the transportation of controlled substances into the state;

(25) the defendant is convicted of an offense specified in AS 11.71 and the offense involved large quantities of a controlled substance;

(26) the defendant is convicted of an offense specified in AS 11.71 and the offense involved the distribution of a controlled substance that had been adulterated with a toxic substance;

(27) the defendant, being 18 years of age or older,

(A) is legally accountable under AS 11.16.110 (2) for the conduct of a person who, at the time the offense was committed, was under 18 years of age and at least three years younger than the defendant; or

(B) is aided or abetted in planning or committing the offense by a person who, at the time the offense was committed, was under 18 years of age and at least three years younger than the defendant;

(28) the victim of the offense is a person who provided testimony or evidence related to a prior offense committed by the defendant;

(29) the defendant committed the offense for the benefit of, at the direction of, or in association with a criminal street gang.

(d) The following factors shall be considered by the sentencing court and may mitigate the presumptive terms set out in AS 12.55.125 :

(1) the offense was principally accomplished by another person, and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim;

(2) the defendant, although an accomplice, played only a minor role in the commission of the offense;

(3) the defendant committed the offense under some degree of duress, coercion, threat, or compulsion insufficient to constitute a complete defense, but which significantly affected the defendant's conduct;

(4) the conduct of a youthful defendant was substantially influenced by another person more mature than the defendant;

(5) the conduct of an aged defendant was substantially a product of physical or mental infirmities resulting from the defendant's age;

(6) in a conviction for assault under AS 11.41.200 - 11.41.220, the defendant acted with serious provocation from the victim;

(7) except in the case of a crime defined by AS 11.41.410 - 11.41.470, the victim provoked the crime to a significant degree;

(8) [Repealed, sec. 42 ch 143 SLA 1982].

(9) the conduct constituting the offense was among the least serious conduct included in the definition of the offense;

(10) before the defendant knew that the criminal conduct had been discovered, the defendant fully compensated or made a good faith effort to fully compensate the victim of the defendant's criminal conduct for any damage or injury sustained;

(11) the defendant was motivated to commit the offense solely by an overwhelming compulsion to provide for emergency necessities for the defendant's immediate family;

(12) the defendant assisted authorities to detect, apprehend, or prosecute other persons who committed an offense;

(13) the facts surrounding the commission of the offense and any previous offenses by the defendant establish that the harm caused by the defendant's conduct is consistently minor and inconsistent with the imposition of a substantial period of imprisonment;

(14) the defendant is convicted of an offense specified in AS 11.71 and the offense involved small quantities of a controlled substance;

(15) the defendant is convicted of an offense specified in AS 11.71 and the offense involved the distribution of a controlled substance, other than a schedule IA controlled substance, to a personal acquaintance who is 19 years of age or older for no profit;

(16) the defendant is convicted of an offense specified in AS 11.71 and the offense involved the possession of a small amount of a controlled substance for personal use in the defendant's home;

(17) in a conviction for assault or attempted assault or for homicide or attempted homicide, the defendant acted in response to domestic violence perpetrated by the victim against the defendant and the domestic violence consisted of aggravated or repeated instances of assaultive behavior.

(e) If a factor in aggravation is a necessary element of the present offense, or requires the imposition of a presumptive term under AS 12.55.125(c)(2), that factor may not be used to aggravate the presumptive term. If a factor in mitigation is raised at trial as a defense reducing the offense charged to a lesser included offense, that factor may not be used to mitigate the presumptive term.

(f) If the state seeks to establish a factor in aggravation at sentencing or if the defendant seeks to establish a factor in mitigation at sentencing, written notice must be served on the opposing party and filed with the court not later than 10 days before the date set for imposition of sentence. Factors in aggravation and factors in mitigation must be established by clear and convincing evidence before the court sitting without a jury. All findings must be set out with specificity.

(g) Voluntary alcohol or other drug intoxication or chronic alcoholism or other drug addiction may not be considered an aggravating or mitigating factor.

(h) In this section, "serious provocation" has the meaning given in AS 11.41.115(f).

Sec. 12.55.165. Extraordinary circumstances.

(a) If the defendant is subject to sentencing under AS 12.55.125 (c), (d)(1),

(d)(2), (e)(1), (e)(2), (e)(4), or (i) and the court finds by clear and convincing evidence that manifest injustice would result from failure to consider relevant aggravating or mitigating factors not specifically included in AS 12.55.155 or from imposition of the presumptive term, whether or not adjusted for aggravating or mitigating factors, the court shall enter findings and conclusions and cause a record of the proceedings to be transmitted to a three-judge panel for sentencing under AS 12.55.175 .

FISCAL NOTE

**STATE OF ALASKA
2000 LEGISLATIVE SESSION**

BILL NO. HB 288

Revision Date/Time (Note if correction) _____	Dept. Affected	Law
Title <u>"... to the creation of an aggravating factor for ...</u>	BRU	Criminal Division
<u>... domestic violence in the physical presence of a child."</u>	Component	1st-4th Judicial Districts; Criminal Appeals/Special Litigation
Sponsor <u>Representative Kott</u>	Component No.	2198-99;2201;03;61;79
Requester <u>House HESS Committee</u>		

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2000) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 HB 288 creates an aggravating factor for the commission of domestic violence in the physical presence of a child.

This new aggravator would apply to felony domestic violence cases. Felony domestic violence cases are already taken very seriously by the Department of Law's prosecutors, and many have other aggravating factors. While a new aggravating factor will require putting forward additional evidence to prove it, the department anticipates any fiscal impact from passage of this bill to be minimal.

Prepared by: <u>Joan M. Kasson</u>	Phone <u>465-5370</u>
Division <u>Attorney General's Office</u>	Date/Time <u>1/31/00, 10:32 AM</u>
Approved by <u>Commissioner</u> <u>Bruce M. Botelho, Attorney General</u>	Date <u>1/31/00</u>
Agency <u>Department of Law</u>	

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FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. HB 288

Revision Date: _____
 Title: "An Act relating to the creation of an aggravating factor
 for the commission of domestic violence in presence of child"
 Sponsor: Representative Kott
 Requestor: (H) HESS

Department Affected: Administration
 BRU: Legal and Advocacy Services
 Component: Public Defender Agency
 COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2 003	FY 2004	FY 2005	FY 2006
PERSONAL SERVICES	**	**	**	**	**	**
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	**	**	**	**	**	**
CAPITAL EXPENDITURES	**	**	**	**	**	**
CHANGE IN REVENUES ()	**	**	**	**	**	**

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts	**	**	**	**	**	**
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	**	**	**	**	**	**

Estimate of any current year (FY 00) cost: \$ -0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached.

Prepared by: Barbara Brink, Director
 Division: Public Defender Agency

Phone: (907) 264-4414
 Date: _____

Approved by Commissioner: Robert Poe, Jr.
 Agency: Department of Administration

Date: 1/31/00

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FISCAL NOTE

STATE OF ALASKA

BILL NO. HB 288

2000 LEGISLATIVE SESSION

ANALYSIS: (continued)

This bill would add another aggravating factor to the list of aggravating factors used in sentencing in felony cases. The aggravating factor would provide for increased sentences if the crime involved domestic violence and was committed in the presence of a child under 16. The child would have to be a member of the household at the time of the offense.

The Public Defender Agency will need to do more work in many of its felony sentencing cases if this aggravating factor is established. The prosecution will have to prove the aggravating factor by clear and convincing evidence. Where the facts are at issue, Public Defender attorneys will have to prepare for and conduct evidentiary hearings. If the aggravating factor is established, the court will need to hear argument concerning the weight to be given to the factor in the case before the court.

However, the amount of additional work is difficult to quantify. Although more work will need to be done, we do not anticipate more criminal cases being brought or sentencings conducted as a result of this bill. In addition, it is not possible to say how many felony sentencings this aggravating factor would affect. Because of these uncertainties, we are submitting an indeterminate fiscal note.

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. HB 288 (HESS)

Revision Date/Time (Note if correction) _____ Dept. Affected Department of Corrections
 Title An act relating to the creation of an aggravating BRU Administration and Operations
factor for the commission of domestic violence Component All
 Sponsor Representative Kott
 Requester House HESS Committee Component No. #0694

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous		99.7	99.7	99.7	99.7	99.7
TOTAL OPERATING	0.0	99.7	99.7	99.7	99.7	99.7

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		99.7	99.7	99.7	99.7	99.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	99.7	99.7	99.7	99.7	99.7

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: Candace Brower Phone 465-3307
 Division Commissioner's Office Date/Time 1/31/00 11:52 AM
 Approved by Commissioner Margaret M. Pugh *Margaret M. Pugh* Date 1-31-00
 Agency Dept. of Corrections

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FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION
DEPARTMENT OF CORRECTIONS

BILL NO. HB 288 (HESS)
PAGE 2 of 2
DATE 1/31/00

Assumptions:

1. The Department of Corrections data show that in 1999 approximately 2365 prisoners were admitted to correctional facilities on domestic violence charges. Of those admissions, 268 were charged with felony assault and 2097 with misdemeanor assault. The Department of Law reports that they anticipate 75 convictions for felony domestic violence assault in calendar year 1999. This number is based on convictions of the past 3 years and the current convictions plus cases pending.
2. Assuming 65% of those incidents occurred in the physical present of children, this bill would affect 49 cases.
3. Assuming that perhaps one half of those 49 would be presumptive cases affected by aggravating factors, that impacts 25 defendants.
4. Assuming 60% of those would result in increased sentences of approximately three months, (60 days to serve) the final number actually being impacted would be approximately 15. Since these cases are felony domestic violence, they are not likely to be eligible to furlough into the community because of their risk factor, so the additional cost of incarceration would be at the institutional rate which is currently \$110.73 per day. Fifteen individuals serving an additional 60 days each at a rate of \$110.73 per day makes a fiscal impact of \$99,657.00 per year.

HB

297

FEB 18 2000

February 16, 2000

Alaska State Legislature
State Capitol MS 3100
Juneau, AK 99801

RE: House Bill (H^r) 297.

To the following Health Education, Social Services Committee:

The Honorable Rep. Fred Dyson, Co-Chairman
The Honorable Rep. John Coghill, Jr., Co-Chairman
The Honorable Rep. Tom Brice
The Honorable Rep. Joe Green
The Honorable Rep. Allen Kemplen
The Honorable Rep. Carl Morgan, Jr.
The Honorable Rep. Jim Whitaker

The Honorable Rep. Jeannette James

I am writing this letter to inform you of my position of favor regarding (HB) 297. As a member of the Anchorage community for many years, I have personally seen the benefits of one-day, ambulatory surgery for the patient as well as the patient's family. The main benefit of ambulatory surgery centers is the drastic decrease in the need for long stay, high cost in-hospital admission. I urge you to consider the importance of going forth with a favorable "yes" to a nationally accepted, community oriented, state of the art healthcare facility that serves all persons and offers the care they should expect from the community in which they live.

Thank you for your time.

Sincerely,

Brandy Hansen

February 17, 2000

Representative Fred Dyson
Chairman, HESS Committee
Alaska State Legislature
Juneau, Alaska

Dear Representative Dyson:

I am a manager in the health care field with over 20 years experience providing services to patients from Georgia to Alaska. This experience has convinced me that the price health care consumers pay for services is directly dependent upon how competitive the local provider market is. In any community where only one dominant provider controls the market, prices are higher and access is limited. In the case of Fairbanks today, the hospital enjoys a monopoly position and patients have no choice in where to go for care. In order to promote a fair, competitive market for health care services, I urge you to support the passage of HB297. Today's \$1,000,000 CON threshold is grossly unrealistic, and it should either be eliminated or increased to \$7,000,000 to reflect the effect of medical inflation since 1983. Thank you.

Sincerely,



Brian Slocum
Fairbanks

February 17, 2000

Representative Fred Dyson
Chairman, HESS Committee
Alaska State Legislature
Juneau, Alaska

Dear Representative Dyson:

The Tanana Valley Clinic and its 35 physicians and providers support House Bill 297, covering the Certificate of Need program. We believe that increased competition in providing health care services will benefit the people of Alaska. Prices for Medicaid services will drop when competition enters the marketplace. Tanana Valley Clinic will continue to treat all patients who come to our clinic, as we have for 40 years. Eliminating the CON program or adjusting the \$1,000,000 threshold will allow us to provide new services for the people of Fairbanks.

Sincerely,

for
Hunter Judkins, MD
Hunter Judkins, M.D.
President

February 13, 2000

Hess Committee
State Capitol
Juneau, AK 99801-1182

Re: House Bill 297

Dear Committee Members;

Thank you for taking the time to read this letter. In respect of your busy schedule I will be brief.

Your sponsorship of HB 297 is greatly appreciated. Successful passage of this legislation will bring to Alaskan's what is very badly needed. It will bring choices in the health care environment. Currently there are significant limitations in the availability of certain procedures and venues for those procedures in Alaska. These limitations are compounded by the inability for private enterprise to build and supply communities with badly needed facilities. The current level that requires Certificate of Need processes is artificially low. \$1,000,000 in today's economy cannot build and equip even the most modest of medical facilities. A more realistic limit of expenditure of \$7,000,000 will better allow the construction of a quality facility in today's economy and encourage private enterprise to bring to our citizens the choices that we currently do not have.

The passage of this bill brings other benefits to the Alaska. Passage of HB 297 will reduce the monopolistic tendencies of established facilities (eg. Fairbanks Memorial Hospital) and allow for competition that will lower the cost of delivery to our citizens. Passage of HB 297 will foster local ownership of health care facilities and keep dollars in the community. The bill, if passed, will reduce the cost of the CON process to the State and its citizens. This bill has an added effect of lowering the cost of delivering health care to those user groups funded by State dollars (State employees and families, Medicaid, etc.).

The current limit of \$1,000,000, if maintained, will stifle free enterprise, limit the availability of access to health care, encourage only large monopolistic entities to deliver needed care, and cost the State large dollars to continue the CON process. This severely limits the choices that are badly needed. Health care is perhaps the most personal and important issue in our society. We must have choices. Maintaining the current level of \$1,000,000 also encourages those who desire to begin a practice of medical care delivery to cut corners and offer less than their expertise may allow because the cost of specialized equipment comes at an expense that may exceed the current level. This is not what we as citizens of Alaska deserve. We deserve the same level of choice in our health care as those who live in the lower 48 states. We now have an opportunity to achieve these choices if HB 297 comes to passage.

The argument that passage of this bill will injure the ability of our local hospital to care for our community is an empty argument. Our local hospital enjoys a monopoly on many services and creating potential competition will only serve to improve the delivery of those services and lower the cost through improved efficiency. Please do not be swayed by those who support monopoly.

Again, thank you for your sponsorship of HB 297. Please let me know if there are any efforts that I can make to assist in its passage. And thank you for your time.

Respectfully,



Michael R. Bryan
378 Shannon Drive
Fairbanks, AK 99701

February 14, 2000

Representative Dyson
State Capitol
Room 24
Juneau, AK 99801-1182

RE: House Bill 297

Dear Representative Dyson:

I am writing this letter to thank you for your sponsorship of House Bill 297.

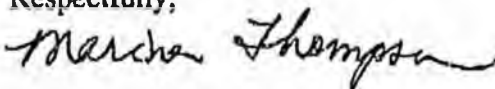
The successful passage of this legislation will bring choices to our health care environment, which are greatly needed. Currently there are significant limitations in choices for Alaskans in regard to venues for surgical procedures, and this is particularly true for the citizens of Fairbanks. In today's economy the current limit of \$1,000,000 is significantly too low to build even a modest medical facility. The proposed limit of \$7,000,000 is more reasonable for building and equipping a quality out-patient surgery center.

The passage of this Bill will have many benefits for Alaskans, to include; increased health care choices, reduced monopolistic tendencies, and it will allow for increased competition which can only decrease the cost of delivery of services. The passage of this Bill will also help decrease costs to the State of Alaska, in that it will abolish the lengthy Certificate of Need process.

The current limit of \$1,000,000 can only increase the cost of the delivery of services, stifle free enterprise, encourage monopolies, and decrease the choices given to Alaskans.

Thank you again for your sponsorship of House Bill 297.

Respectfully,



Marina Thompson
P.O. Box 80310
Fairbanks, Alaska 99708

February 14, 2000

Representative Dyson
State Capitol
Room 24
Juneau, AK 99801-1182

RE: House Bill 297

Dear Representative Dyson:

I am writing this letter to thank you for your sponsorship of House Bill 297.

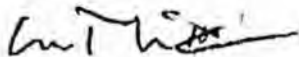
The successful passage of this legislation will bring choices to our health care environment, which are greatly needed. Currently there are significant limitations in choices for Alaskans in regard to venues for surgical procedures, and this is particularly true for the citizens of Fairbanks. In today's economy the current limit of \$1,000,000 is significantly too low to build even a modest medical facility. The proposed limit of \$7,000,000 is more reasonable for building and equipping a quality out-patient surgery center.

The passage of this Bill will have many benefits for Alaskans, to include; increased health care choices, reduced monopolistic tendencies, and it will allow for increased competition which can only decrease the cost of delivery of services. The passage of this Bill will also help decrease costs to the State of Alaska, in that it will abolish the lengthy Certificate of Need process.

The current limit of \$1,000,000 can only increase the cost of the delivery of services, stifle free enterprise, encourage monopolies, and decrease the choices given to Alaskans.

Thank you again for your sponsorship of House Bill 297.

Respectfully,



George Thompson
P.O. Box 80310
Fairbanks, Alaska 99708

February 16, 2000

Alaska Senators and Representatives
State Capitol
Juneau, AK 99801

Dear Senators and Representatives:

I am writing to urge you to vote against HB 297. This bill comes because of a very complex law. The Hospital and Nursing Home Association did not ask for this bill and is not supporting it. It is not a law to be changed without some comprehensive analysis.

There are several reasons for you to oppose the bill, including:

1. There are significant fiscal implications to the State's Medicaid budget if this bill is approved. Yet, this bill received only one committee referral, that of HESS. It should be referred to the Finance Committee where the complex questions relating to Medicaid can be appropriately dealt with.
2. The growth in the consumer price index and the inflation factors used in the Medicaid rate setting process do not support increasing the dollar threshold for CON review from \$1 million to \$7 million. Using the CPI could potentially increase the threshold to \$2 million.
3. The timing of the bill is not appropriate. Alaska hospitals are going through significant debate and negotiation regarding changes to the Medicaid rate setting process. CON approval assures that the capital costs are considered in the rate setting. The balance of regulatory review and Medicaid rate setting is an issue for all Alaska hospitals.
4. All Alaskan hospitals and nursing homes are opposed to this bill. Who does this bill benefit? Not the industry. This bill aids only one small special interest group.

Alaska Representative
Re: HB 297
February 14, 2000
Page Two

5. Hospitals have the full expense of emergency services, bad debts, and charity care and other services that are unprofitable but needed in the community. When patients leave the hospital for the allegedly less expensive ASC, the fixed costs of the existing facility will be spread among fewer patients, inevitably increasing the cost to other patients. CON review allows for any price advantage individual consumers may obtain to be weighed against the increased cost to the entire community.
6. Healthcare marketplace competition works only in states where capitated and other prospective payment systems are controlling health care costs. Eleven of the states that eliminated CON did so in the mid-1980s primarily in response to the managed care environment. Alaska does not have capitated healthcare plans, we have no HMOs, and very low managed care.
7. The bill does not help to assure access to quality health care for all Alaskans.

Please vote against HB 297.

Sincerely,

Thomas Goldston
Community Affairs Director

Loren H. Lounsbury
International Management Group
705 W. 6th Avenue Suite 201
Anchorage, AK 99501

February 14, 2000

The Honorable Fred Dyson
Committee Chairman
House Health and Social Services Committee
State Capitol, Room 104
Juneau, AK 99801-1182

Dear Representative Dyson:

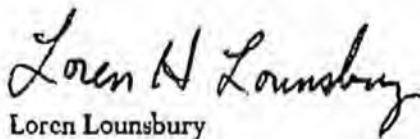
I am writing to ask you to oppose House Bill 297 and Senate Bill 195 relating to the Certificate of Need (CON) program. This is a complex issue that can negatively impact many rural and community hospitals without further thorough review.

I have been a Director for the Providence Alaska Foundation since 1987. During this time, I have participated in Providence's major health care expansion to increase medical services to all Alaskans. A change to the CON at this time will have long-term financial results impacting patients, local and state budgets.

The current debate over the Certificate of Need is really about "cherry picking" profitable services and leaving community based hospitals with the non-profitable ones. This particularly poses a threat to patients and community based medical centers in rural Alaska. Full-service hospitals could become financially nonviable in a very short time, ultimately, harming to entire communities, if forced to close their doors.

The CON process allows input and assessment of a community's need for medical facilities and equipment. I support a program that has governance or oversight of proposed medical facilities and equipment. Over time the CON program has proven helpful in determining what the real medical needs are in a community. I urge you to oppose the bills that would eliminate the CON program.

Sincerely,


Loren Lounsbury

cc: Alaska State Legislators
Commissioner Karen Perdue
Governor Tony Knowles

Tanana Valley Clinic
Administration
1001 Noble Street
Phone: (907)459-3548
Fax: (907)459-3583



Fax

To: Chairman, Rep. Fred Dyson **From:** Hunter Judkins, MD, President

Fax: 465-4587 **Date:** February 15, 2000

Phone: 465-2199 **Pages:** 2

Re: HESS Committee **CC:**

Urgent **For Review** **Please Comment** **Please Reply** **Please Recycle**

•Comments:

Please enter my testimony on HB297. Please feel free to contact me at (907)459-3548 if you have any questions.

Thank You.



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the H E S S
 Committee on HB 297 Committee Name
Bill / Subject Dated 2-14-00

The Tanana Valley Clinic supports House Bill 297, covering new limits for the Certificate of Need program. We believe the increased competition in providing health care services will benefit the people of Alaska. Prices for Medicaid services will drop when competition enters the marketplace. Tanana Valley Clinic will continue to treat all patients who come to our clinic, as we have for 40 years. Adjusting the CON limit will allow us to provide new services in Fairbanks.

SIGNED: Hunter Judkins, MD, President *[Signature]*
Testifier
Tanana Valley Clinic
Representing
1001 Noble Street, Fairbanks, AK 99701
Address / Phone Number (907) 459-3500

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF ADMINISTRATIVE SERVICES


TONY KNOWLES, GOVERNOR

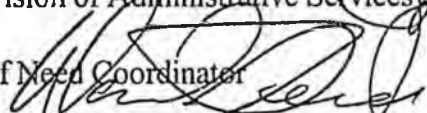
P.O. BOX 110650
JUNEAU, ALASKA 99811-0650
PHONE: (907) 465-3082
FAX: (907) 465-2499

MEMORANDUM

DATE: February 15, 2000

TO: Elmer Lindstrom, Special Assistant, Department of Health & Social Services

THRU: Janet Clarke, Director, Division of Administrative Services 

FROM: David Pierce, Certificate of Need Coordinator 

SUBJECT: Alaska Certificate of Need Review Criteria

There are criteria and standards that are both used in reviewing certificate of need applications. Criteria are different than standards. Criteria have to do with broad review categories, such as "Identification of the population to be served", or the "Availability of less costly alternatives." Standards are more specific such as "the number of ambulatory surgical procedures allowed before a new service is approved", or "the utilization rate required of existing services before expansion is allowed." The current criteria for reviewing certificate of need applications come from federal law that has been repealed. Standards used include the Alaska State Health Plan, plans from other Departments such as the Division of Senior Services, National standards and standards from other states. The State Health Plan is currently outdated and was last published in 1984. Most other states have updated and adopted review criteria and standards in regulation or statute. Alaska will be updating standards for long-term care during FY2000. Other certificate of need review criteria and standards need to be updated and adopted in either law or regulation.

Criteria from the Certificate of Need Application Packet:

- Relationship of services to applicable state and local health services plans.
- Relationship of services reviewed to long range development plans of the applicant.
- Documentation of need that the population served has for the new or expanded services and the extent to which underserved groups are likely to have access to those services.
- The availability of less costly or more effective alternative methods of providing the service.
- The immediate and long-term financial feasibility of the project.
- The relationship of the project to the existing health care system.
- The availability of resources including manpower, management and funds to support the service and the availability of alternative uses of such resources for other health services.

- The relationship of the project, including organizational relationship, to ancillary & support services.
- Special needs and circumstances of individuals outside of the service area that apply to the project.
- Special needs and circumstances of HMOs and members of HMOs.
- Special needs and circumstances of research projects.
- The probable impact of a construction project including the costs of construction, the method of construction, and energy savings and the probable impact on the costs of providing health services.
- The contribution of the project in meeting the health care needs of medically underserved groups.
- The special circumstances of health care facilities and HMOs with respect for the need to conserve energy.

Review Standards from Certificate of Need Law:

Sec. 18.07.041. Standard of review for applications for certificates of need relating to non-nursing home beds and services.

The department shall grant a sponsor a certificate of need or modify a certificate of need that authorizes beds other than nursing home beds or that is for a health care facility other than a nursing home if the availability and quality of existing health care resources or the accessibility to those resources is less than the current or projected requirement for health services required to maintain the good health of citizens of this state.

Sec. 18.07.043. Standard of review for applications for certificates of need relating to nursing homes and nursing home beds.

(a) The department shall develop review standards for an application for a certificate of need, or for a modification of a certificate of need, issued under this chapter for a health care facility that is a nursing home or has nursing home beds.

(b) In developing the review standards under (a) of this section, the department shall consider whether:

(1) a public process and existing appropriate statewide, regional, and local plans were included in planning and designing the additional nursing home beds or the health care facility;

(2) the additional nursing home beds or the health care facility meets minimum required use rates for new nursing beds, and the effect on use rates for existing nursing home beds;

(3) the additional nursing home beds or the health care facility demonstrates consideration of the community, regional, and statewide needs for new nursing home beds;

(4) the additional nursing home beds or the health care facility meets the minimum number

of new nursing beds that should be required in a facility to ensure efficiency and economies of scale;

(5) the additional nursing home beds or the health care facility demonstrates the proposed service will provide a quality of care equivalent to existing community, regional, or statewide services;

(6) the additional nursing home beds or the health care facility demonstrates financial feasibility, including long-term viability, and what the financial effect will be on consumers and the state; and

(7) the sponsor has demonstrated cost effectiveness through considering the availability of appropriate, less costly alternatives of providing the services planned.

(c) The department shall grant a sponsor a certificate of need or modify a certificate of need that authorizes nursing home beds or that is for a health care facility that is a nursing home if the department finds that the sponsor meets the standards established in or under this chapter.



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the HESS
 Committee on CON Modification Committee Name Dated 2-15-00
Bill / Subject

I favor a modification of the existing Certificate of Need program. The existing CON process does not reflect the economic reality of the year 2000. A million dollar threshold for CON review may have been appropriate in 1973, but today the limit is far too low. The threshold should be raised to \$7,000,000. Needed health care services are not being provided due to today's unrealistically low CON limits.

SIGNED: Brian Hecum
Testifier
Tanana Valley Clinic
Representing
1001 Nobel St. Fairbanks 99701 459-3509
Address / Phone Number

James B. Blasingame
P.O. Box 101338
Anchorage, AK. 99510-1338

VIA FACSIMILE

February 14, 2000

The Honorable Fred Dyson
Chairman, House & Social Services Committee
Alaska State Legislature
State Capitol, Room 104
Juneau, AK. 99801-1182

Dear Representative Dyson:

I am opposed to HB-297 regarding to the Certificate of Need program. This legislation, would have a negative impact upon many of Alaska's community and rural hospital facilities.

The current debate over the Certificate of Need is really about "cherry picking" many of the profitable services, leaving many of community based medical centers with all of the other non-profitable services.

I serve on the Governing Board of the Providence Health System in Alaska and know and understand the implication of what the elimination of the Certificate of Need requirements would do to all community hospitals. The Sisters of Providence has been in Alaska, serving Alaskans for nearly 100 years as a community based hospital. They have expanded their healthcare services to include a Children's Hospital and Heart and Cancer Centers to eliminate the need for patients to travel to the lower 48 for these services.

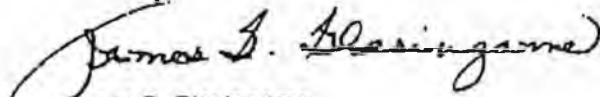
I believe that the Legislature has a moral obligation to protect those community based hospitals for all services which they provide to a community. To allow other entities to move into communities to provide profitable medical services while leaving the community hospital with all of the unprofitable services will do a great harm to the delivery of medical care provided for its citizens.

The Certificate of Need process allows input of a community's need for medical facilities, equipment and services and I support a process that has a jurisdictional control over new medical facilities and equipment. The current process has proven to be a successful model in determining what the real medical needs are in a community.

Therefore I would urge you to oppose any bill that would eliminate the Certificate of Need Program.

Thank you for your consideration in this very important piece of legislation.

Sincerely,



James B. Blasingame

cc: Governor Tony Knowles
Commissioner Karen Perdue

CHERYL A. BOWERS

CHERYL A. BOWERS

CERTIFIED PUBLIC ACCOUNTANT

4101 ARCTIC BLVD., SUITE 205

ANCHORAGE, ALASKA 99503-5702

TELEPHONE
(907) 565-2901FAX
(907) 565-2933

February 14, 2000

Representative Fred Dyson-Committee Chairman
House Health, Education, and Social Services Committee
Alaska State Legislature
State Capitol, Room 104
Juneau, AK 99801-1182

Dear Representative Dyson:

Please be advised that I do not support either House Bill 297 nor Senate Bill 195 and I respectfully request that you oppose them as well.

As a director for the Providence Health System in Alaska Service Area Board, I have had the privilege of seeing how the Certificate of Need program works to benefit all Alaskans. The elimination of this program would cause harm to rural hospitals and the communities which utilize their services.

Thank you for your attention to this critical matter.

Sincerely,



Cheryl A. Bowers
CAB/sth

PETERSBURG MEDICAL CENTER

P.O. Box 589

Petersburg, Alaska 99833

Phone: (907) 772-4291

Facsimile: (907) 772-3085

February 14, 2000

Representative Fred Dyson
State Capitol
Juneau, AK 99801

Dear Representative Dyson,

I would like to ask for your support in defeating legislation designed to amend current Certificate of Need Law to allow special interests to circumvent the process required by hospitals and nursing homes - namely HB297.

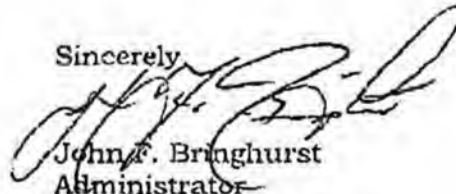
Currently hospitals in Alaska are required to propose new capital projects before public scrutiny in order to determine which there is sufficient need to justify the project. The process is cumbersome and can be expensive, but it has served the purpose of allowing a regionalized approach to planning and the authorization of capital-intensive health care projects. I believe it has done a fairly good job of reducing expensive duplication of services.

Raising the threshold of reviewed projects - as proposed in HB 297 - opens the door to smaller projects that are designed to selectively pursue specific, profitable services such as ambulatory surgery, urgent care and radiology, at the expense of community hospitals, which are left with unprofitable services requiring 24-hour, seven day a week operation. This amendment will eliminate public scrutiny related to need and duplication of existing services for smaller segments of business that could financially ruin existing facilities offering full-service availability.

I do not believe it is the public's best interest to manipulate the Certificate of Need process to allow private parties to select out the good payers and the types of cases that provide a profitable return. This can seriously jeopardize public and community hospitals, whose ability to accept all payers and keep their doors open 24-hours a day is dependent on that business. Leaving the threshold as it is assures public scrutiny of new or additional hospital-related projects in order to determine whether the services are in the public's interest.

Thank you for your consideration.

Sincerely,



John F. Bringham
Administrator

Loren H. Lounsbury
International Management Group
705 W. 6th Avenue Suite 201
Anchorage, AK 99501

February 14, 2000

The Honorable Fred Dyson
Committee Chairman
House Health and Social Services Committee
State Capitol, Room 104
Juneau, AK 99801-1182

Dear Representative Dyson:

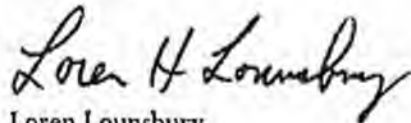
I am writing to ask you to oppose House Bill 297 and Senate Bill 195 relating to the Certificate of Need (CON) program. This is a complex issue that can negatively impact many rural and community hospitals without further thorough review.

I have been a Director for the Providence Alaska Foundation since 1987. During this time, I have participated in Providence's major health care expansion to increase medical services to all Alaskans. A change to the CON at this time will have long-term financial results impacting patients, local and state budgets.

The current debate over the Certificate of Need is really about "cherry picking" profitable services and leaving community based hospitals with the non-profitable ones. This particularly poses a threat to patients and community based medical centers in rural Alaska. Full-service hospitals could become financially nonviable in a very short time, ultimately, harming to entire communities, if forced to close their doors.

The CON process allows input and assessment of a community's need for medical facilities and equipment. I support a program that has governance or oversight of proposed medical facilities and equipment. Over time the CON program has proven helpful in determining what the real medical needs are in a community. I urge you to oppose the bills that would eliminate the CON program.

Sincerely,


Loren Lounsbury

cc: Alaska State Legislators
Commissioner Karen Perdue
Governor Tony Knowles

BARBARA L. FLEMING

PO Box 302, Seward, Alaska 99664 (907) 224-7186

February 14, 2000

House Health, Education and Social Services
Representative Fred Dyson - Committee Chair
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Dear Representative Dyson,


I am writing to ask you to oppose House Bill 297 and Senate Bill 195 relating to the Certificate of Need (CON) program. This is a complex issue that can negatively impact many rural and community hospitals without thorough review. I ask that you refer HB 297 to a HESS Subcommittee where more dialogue and solutions can resolve this ongoing issue.

I have been involved with Providence Health System in Alaska since they moved to Seward four years ago. During this time, I have served on the board of directors and have been involved with many issues that face the rural facilities. A change to the CON at this time will have long-term financial results impacting patients, local and state budgets.

The current debate over the Certificate of Need is really about "cherry picking" profitable services and leaving community based hospitals with the non-profitable ones. This particularly poses a threat to patients and community based medical centers in rural Alaska and in Seward. Full-service hospitals could become financially nonviable in a very short time, ultimately, harming to entire communities, if forced to close their doors.

The CON process allows input and assessment of a community's need for medical facilities and equipment. I support a program that has governance or oversight of proposed medical facilities and equipment. Over time the program has proven helpful in determining what the real medical needs are in a community. I urge you to oppose the bills that would eliminate the CON program.

Sincerely,



Barbara L. Fleming, Secretary
Board of Directors
Providence Health System in Alaska

cc: Alaska State Legislators-HESS Committee
Commissioner Karen Perdue
Governor Tony Knowles

SWALLING & ASSOCIATES

Certified Public Accountants & Business Advisors

February 14, 2000

House Health, Education and Social Services
Representative Fred Dyson, Committee Chairman
Alaska State Legislature
State Capitol, Room 104
Juneau, AK 99801-1182

Dear Representative Dyson:

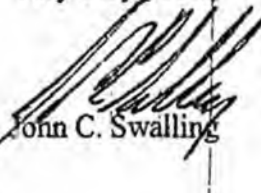
I am writing to ask you to oppose House Bill 297 and Senate Bill 195 relating to the Certificate of Need (CON) program. This is a complex issue that can negatively impact the people of Alaska.

I have been a member of the Providence Advisory Board or the Systems Area Board of Providence since 1986. During this time, I have seen the importance of the CON process. A change to the CON at this time will have long-term financial results impacting patients, the local community, and local and state budgets.

The heart of this Certificate of Need discussion is to allow health providers to offer only desirable and profitable services and leaving community based hospitals with the non-profitable services. This poses a threat to patients and community based medical centers, especially those in rural Alaska. Full-service hospitals could become financially nonviable in a very short time, ultimately harming entire communities, if forced to close their doors.

The CON process allows input and assessment of a community's need for medical facilities and equipment. I support a program that has governance or oversight of proposed medical facilities and equipment. Over time the CON program has proven helpful in insuring the diverse medical needs in a community are served. I urge you to oppose the bills that would eliminate the CON program.

Very truly yours,



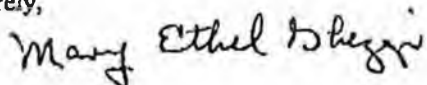
John C. Swalling

Dear Representative James:

I urge you to oppose HB 297 which essentially dismantles the Certificate of Need process, an important mechanism used by 75% of the other states across the country to help control Medicaid costs.

This is an exceptionally complex issue for a state such as Alaska, with its vast geographic size and distributed population centers. I urge you to intensively investigate and study the implications of this measure before taking any action.

Sincerely,

A handwritten signature in cursive script that reads "Mary Ethel Ghezzi".

Mary Ethel Ghezzi
PO Box 71857
Fairbanks, AK 99707



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the HESS Committee
 Committee on HB 297 Committee Name
Bill / Subject Dated 2-10-2000

My personal testimony was cut unduly short - I respectfully request my testimony be added to those presented on 2-10-2000 on HB 297 in order that my focus point and critical request becomes part of the record for consideration.

Please include this with all testimony on HB 297
 Attachment of 2 pages of testimony by
 Rebecca S. Dean.

Thank you!
 Rebecca

SIGNED:

Rebecca S. Dean, MA, FACMPE

Testifier

Fairbanks Community

Representing

193 Valky View Dr, Fairbanks, AK 99712

Address / Phone Number

February 10, 2000

Legislative Testimony
Rebecca S. Dean
Fairbanks
House Bill 297

First, I would like to express my appreciation to our Alaska legislators who direct and constant efforts continue to advance and benefit the delivery the healthcare services to the citizens of our great state. Recent initiatives reflect sincere concern and understanding of the needs of the patients and the demands and barriers which challenge them.

As a long term Fairbanks resident by choice, I urge the support and ratification of HB297. The Certificate of Need of Process in the State of Alaska has not kept pace with the evolution of the healthcare service industry or with the perspective of our fellow states nationwide.

Our Certificate of Need Program was initiated in 1976 under a Federal Mandate with a focus on controlling undue costs and preserving budgeted dollars to support healthcare needs. These initiatives were driven by circumstances which have changed drastically over the past 20 plus years. Federal regulation has been repealed along with the Federal subsidies for the state program. Federal reimbursement regulations directing ceilings on health care service charge and payment structures have served to become the controlling mechanisms.

Since the repeal of the Federally mandated programs, many states have responded **PROACTIVELY** and repealed or *at the very least*, modified their state CON process.

The Alaska CON program needs close scrutiny and an economic evaluation. It essentially needs to be re-evaluated to reflect appropriateness in its application for the new millennium. 14 states have modified their CON program to updated economic criteria which take into account inflation over the past 20 years. They have adapted the measurement of need criteria and methodology to lend consideration and ability to respond to new medical service venues as the healthcare industry makes landmark improvements in technology, treatment and the delivery of care.

Utah and Wyoming are among those 14 states who have initiated modifications to the CON program. These two states in particular mirror many of the Alaska medical service delivery challenges as well as our current reimbursement system.

The AK CON application process requires applicants to develop significant pro forma measurements to ensure the viability of the prospective construction and development project. These financial pro formas, estimates, budgets, and forecast are based upon today's value of each dollar spent. Clearly the CON threshold must be based upon the same criteria and be adjusted for the cost of inflation on a regular basis.

As a healthcare management professional for the past 17 years, Past President of the Alaska Medical Group Management Association (3 consecutive terms) and currently a National Medical Group Management Association National Executive Committee Representative, I am constantly reminded challenges are best responded to and resolved to success outcomes by **proactive planning** rather than **reactive ineffectiveness**. As a resident and taxpayer, and healthcare consumer in the Fairbanks community and state of Alaska, I appeal to the committee's direction of regulatory measures to bring our CON process up to date with the programs and the cost of providing healthcare services we rely upon as consumers.

The 1999 CON process in the Fairbanks Community accurately demonstrated the inefficiencies and a very high dollar cost of the current CON program barriers and limitations. The thousands of dollars expended, focused on data which shifted like quick sand resulting in additional costs to validate the process. These events have served to prevent free enterprise, prevent competition and stifle patient choice. In essence, the CON process has stabilized a "monopoly" of healthcare delivery business in our Fairbanks community.

Legislative Testimony
Rebecca S. Dean
Fairbanks
House Bill 297

The 1M dollar construction and development cap with our CON process needs "dusted off" and economically updated with a value reflecting adjustments for inflationary changes. There are CPI and inflation indexes published and readily available specific for the healthcare industry.

\$1M dollars will not realistically provide for the development of a health care facility to house a complex medical service today. To reduce this to the simplest theory...the value of home \$\$ used to purchase a home in 1977 will certainly not provide for the replacement cost to reconstruct that home in 2000.

I urge you to enact, at the very least, legislation which reflects the State of Alaska's ability to develop regulations which are forward focused, allowing our communities state wide to benefit from competition and freedom of enterprise. The current threshold is a barrier at the current level. It escalates the cost of medical projects and consumes expansive amounts of time.

Fairbanks citizens expect from you and deserve a choice....a choice in development of business which brings benefits to the community and a choice of health care delivery services. Business development and the support of competition throughout Alaska needs to be lateral across all services...not restricted in the healthcare arena allowing monopoly control.

Rebecca S. Dean, MA, FACMPE

February 10, 2000

Working in a local healthcare institution and living in the Mat-Su Valley, I am concerned with House Bill 297 currently before you. The Certificate of Need process assists in controlling unneeded health expenditures and minimizes excessive duplication of services for the public.

I lived and worked in the state of Arizona years ago when they did not have a certificate of need process. The result of this was uncontrolled building with multiple duplication of services within blocks of one another. Numerous acute care hospitals and freestanding surgical and imaging centers were constructed. What was felt to be a positive change for increasing choice for the consumer, ultimately ended in disaster for those consumers with insufficient or no insurance. The freestanding medical/clinical centers accepted only patients with commercial insurance, depleting these customers from the acute care hospitals. This left the Medicaid, Medicare, and self-pay, and charity care customers seeking service at the hospitals with an insufficient 'balance' of commercial insurance customers to meet expenses. The result? Numerous hospital closures, the elimination of many wonderful charity care programs and services to the community, and for-profit centers satisfying their stockholders. The same could happen in our community. If it does, many of the mission-oriented programs will be eliminated. These programs address the greater health of our community in many tangible ways.

Although the current Certificate of Need process in our state isn't perfect, it's certainly better the way it is than raising the threshold to \$7 million or eliminating the process entirely. I thank you for your consideration of my comments.

Patsy Crofford
VP, Employee Development & Resource Services
Valley Hospital Association
515 E. Dahlia, Palmer, AK 99645
(907) 352-4855





HES Committee
State Capitol
Juneau, Alaska 99801-1182

February 10, 2000

Gentlemen:

I am writing in opposition to HB297 which proposes to raise the threshold for certificate of need (CON) from \$1 million to \$7 million. There are numerous reasons this bill should not be passed. However, I believe the bill should be opposed because the long-term result of its passage would be reduced access to quality healthcare by Alaskans.

First, it should be noted that this bill represents de facto repeal of the CON law for healthcare expenditures since most services other than construction of an inpatient hospital can be established for less than \$7 million.

Proponents of this bill state that it will promote competition and improve healthcare. Such reasoning is flawed relative to the delivery of healthcare, because the healthcare market is not a free market. Laws and regulations require hospitals to treat any patient presenting in the emergency room. In addition, hospitals treat indigent patients and those covered by government programs (such as Medicare and Medicaid) which typically pay less than commercial insurance plans. It is the margins generated by commercially insured patients that allow the state's hospitals to treat the indigent citizens of Alaska and those for whom payment is highly discounted.

The "competition" that would be fostered by this bill would be subject to neither the regulations nor the mission of community benefit that govern most hospital operations. For example, a group of physicians could open an ambulatory surgery center without a CON and would, through selective self-referral, send commercially insured patients to their center while using the hospital to perform surgeries on patients for whom payment would be inadequate. It is my understanding that the main citizen supporter of this bill envisions a similar scenario with him as developer of such a surgery center.

The result of such "competition" would be erosion of the financial health of Alaska's hospitals, culminating in elimination of unprofitable services and hospital closures. Access to the highest quality healthcare would then become unavailable to those lacking the financial resources to pay.

Do not give in to the greed of certain individuals who would profit from this legislation. Do not limit access to high quality healthcare services to Alaskans. Do not pass HB297.

Sincerely,

A handwritten signature in black ink, appearing to read "Wilson P. Patteson III". The signature is fluid and cursive, with a prominent initial "W" and a long, sweeping underline.

Wilson P. Patteson III
VP- Finance

COPY

**Greater
Fairbanks
Community
Hospital
Foundation, Inc.**

February 3, 2000

Representative Tom Brice
119 N. Cushman Street, Suite 205
Fairbanks, AK 99701

Dear Representative Brice, *Dear Tom*

As a community hospital board member with over 35 years of experience in business and health planning in Alaskan communities, I urge you to oppose HB 297 and SB 195.

Dismantling or significantly changing the dollar thresholds required by the Department of Health and Social Services' Certificate of Need program will have deleterious effects on the overall Medicaid budget and seriously jeopardize the ability of small and mid-sized communities across Alaska to cost-effectively provide needed health services. The Certificate of Need program provides the State of Alaska and its communities a valuable health planning tool.

Doing away with the State's Certificate of Need program for health facilities provides incentives to duplicate profitable, but unneeded, surgical and diagnostic imaging centers, and disincentives to address the large, unprofitable services provided by smaller community hospitals. I know of at least five for-profit providers who are interested in providing redundant diagnostic imaging and ambulatory surgery services in our community. I know of no providers willing to address the unprofitable mental health, home care, and after-hour pharmacy needs of these communities.

These bills do not adequately address the fragile health and economic balances in many Alaskan communities. I respectfully ask you to examine the broader implications of these bills, and urge you to oppose SB 195 and HB 297.

Sincerely,

Red
Harry J. Porter
Treasurer

cc: Governor Tony Knowles
Commissioner Karen Perdue,
Department of Health and Social Services

*Owners of Fairbanks
Memorial Hospital
and Donall Center*

P.O. Box 71396
Fairbanks, AK 99707

(907) 458-5550
fax: (907) 458-5551

*Steve Stephens
President*

*David D. Ranley
1st Vice President*

*Ann Swift
2nd Vice President*

*Harry Porter
Treasurer*

*Joe Faulhaber
Secretary*

Trustees:

*Walter Carlo
Jeff Cook
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Dave McNary
Ouida Paden
Richard Seifert
Margaret Soden
Charles Stolar, M.D.
Sandra Stringer
William G. Stroncker
David Swanson
Jeffrey Zuckerman, M.D.*

Emeritus Members:

*Julius A. Kornfeld
G.A. Al Seoliger
William R. Wood*

*Business Manager
Karen Porter*

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. CS HB297 (HES)

Revision Date/Time (Note if correction): _____ Dept. Affected: Health and Social Services
 Title: An Act relating to the certificate of need BRU: Medical Assistance
program Component: Medicaid Services
 Sponsor: James COMPONENT SERIAL NO. 2077
 Requestor: House (HES) See also (SN#): _____

Expenditures/Revenues: (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	***	***	***	***	***	***

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

CHANGES IN REVENUES ()						
-------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	***	***	***	***	***	***

Estimate of any current year (FY2000) cost: \$0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The certificate of need program is a planning and cost saving program designed to ensure that the Alaskan health care system develops in an efficient and cost-effective way and to avoid unnecessary costs to the state and health care consumers by precluding construction of duplicative or unnecessary projects.

CS HB 297 will increase the financial threshold for requiring a certificate of need for acute care health facilities and medical equipment from \$1,000,000 to \$7,000,000.

The \$7,000,000 threshold will assure that major health care projects, e.g., replacement of a community hospital, will continue to be subject to the certificate of need requirement.

Prepared by: Elmer A. Lindstrom, Special Assistant Phone: 465-1613
 Division: Office of the Commissioner Date/Time: 2/10/00 1:18 PM

Approved by Commissioner:  Date: 2/10/00
 Agency: Department of Health & Social Services

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CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services
Department of Education & Early Development
State of Alaska

COPY

**Greater
Fairbanks
Community
Hospital
Foundation, Inc.**

February 3, 2000

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119 N. Cushman Street, Suite 205
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Commissioner Karen Perdue,
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David Swanson

Jeffrey Zuckerman, M.D.

Emeritus Members:

Julius A. Kornfeld

O.A. Al Seelig

William R. Wood

Business Manager:

Karen Porter

Therefore be it resolved that the majority of the Valley Hospital Association, Inc. Operating Board of Directors calls upon the Alaska Legislature to leave the existing Certificate of Need Laws of the State of Alaska unchanged. In particular, the Valley Hospital Association, Inc. Operating Board of Directors advises the Alaska Legislature to maintain the \$1,000,000 Certificate of Need threshold currently recommended by the State of Alaska.

Be it resolved that the majority of the Valley Hospital Association, Inc. Operating Board of Directors calls upon all health care providers to join in supporting these efforts to encourage continued healthy discussions of health policy planning in the Mat-Su Valley, keeping in mind that all policy decisions should be made for the community's greatest good.

Valley Hospital Association, Inc.

Operating Board President

ATTEST:

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. CS HB297 (HES)

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TOTAL OPERATING	***	***	***	***	***	***

CAPITAL EXPENDITURES						
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Prepared by: Elmer A. Lindstrom, Special Assistant Phone: 465-1613
 Division: Office of the Commissioner Date/Time: 2/10/00 1:18 PM

Approved by Commissioner:  Date: 2/10/00
 Agency: Department of Health & Social Services

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ANALYSIS (cont.):

Smaller projects, e.g., many pieces of major medical equipment or construction of some outpatient facilities will no longer require a certificate of need.

Short Term Impacts

To the extent that the higher threshold results in the construction of health care facilities which create excess health care capacity in a community, the Medicaid program would likely incur additional costs which would not otherwise be incurred. The impact on the Medicaid budget will depend on the location, cost, and date new projects are brought online. The Department lacks sufficient detailed information about the universe of possible projects to provide a credible and concrete estimate of these potential costs.

Long Term Impacts

The longer-term fiscal impacts of increased health care competition in a community are extremely difficult to predict. Excess capacity, where it exists, may be absorbed by population increases over time. Increased competition may result in other cost efficiencies within the community health system. The results of increased competition will likely result in different outcomes in different communities over time. Again, the Department lacks sufficient community-specific information to determine the fiscal impact of these longer-term impacts on the Medicaid budget.

Jeff Cook
458 Terrace Drive
Fairbanks, Alaska 99712

February 4, 2000

Representative Jeannette James
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Dear Representative James,

I am writing to voice my opposition to House Bill 297 and Senate Bill 195 relating to the certificate of need (CON) program.

As the state struggles with fiscal constraints it would be unwise to eliminate the CON program because of its role in limiting excess and duplicative medical infrastructure and the increased costs to the state through Medicaid program growth.

For over 30 years, the Greater Fairbanks Community Hospital Foundation, of which I am a Trustee and Executive Committee member, has developed a broad array of quality medical services at the lowest cost possible. In general, outpatient/ancillary services such as lab, radiology, surgery and pharmacy help support financially marginal services like mental health, general medical, emergency room, etc. The current debate over the certificate of need is really about cherry picking profitable services and leaving Alaskan hospitals with the non profitable ones. That will likely result in higher overall costs not lower ones as the proponents assert and financially damage community hospitals.

The CON process allows for an even-handed assessment of a community's need for medical services. I think it has proven helpful and would strongly encourage you to continue the program.

Sincerely,

Jeff Cook

Interior Legislative Delegation
Commissioner Karen Perdue
Governor Tony Knowles



February 9, 2000

3200 Providence Drive
P.O. Box 196604
Anchorage, Alaska
99513-6604

Tel 907.562.2211

Dear :

The Sisters of Providence have been providing health care to Alaskans since 1902 or nearly 100 years. We ask that you review the Certificate of Need issue to include House Bill 297 and Senate Bill 195.

Providence Health System in Alaska opposes both HB 297 and Senate Bill 195 pertaining to the Certificate of Need process. **We strongly believe that the Certificate of Need currently provides an appropriate level of review for governing health care facility construction in Alaska.**

To dismantle the Certificate of Need program eliminates the states' ability to look at how duplication of facilities may impact the quality and cost of health care available to Alaska's people.

A primary reason to retain the Certificate of Need is that Medicaid Reimbursement is tied to the Certificate of Need approval. In addition, the Certificate of Need provides one method for the State to administer and oversee Medicaid expenditures.

The current work to change the Medicaid Rate Setting affects capital costs; therefore the timing is not right to consider repeal the Certificate of Need. The balance of regulatory review and Medicaid rate setting remains an issue for all Alaskans.

Only 11 of 38 states have repealed some form of the Certificate of Need Policy with rural and non-managed care states such as Alaska, most adversely affected by repeal of Certificate of Need.

We respectfully request that you consider voting against the adoption of this proposed legislation and retain the Certificate of Need program.

Sincerely,

Doug Bruce, Chief Executive



**Denali Center
Fairbanks Memorial Hospital**

Denali Center
1510 19th Avenue
Fairbanks, AK 99701
(907) 458-5100

Fairbanks Memorial Hospital
1650 Cowles Street
Fairbanks, AK 99701-5998
(907) 452-8181
Fax (907) 458-5324

February 3, 2000

Representative Fred Dyson
Alaska State Legislature
Juneau, Alaska

Hand carried

Dear Representative Dyson,

Fairbanks Memorial Hospital & Denali Center oppose Senate Bill 195 and House Bill 297 related to the certificate of need (CON) program, which governs health care facility construction in Alaska.

On its face, eliminating or modifying the CON program may appear to improve the quality of health care and lower costs, but in a state with the sparse population and vast geographic of Alaska's, it will likely have the reverse effect.

Roughly two-thirds of the states have some varying forms of CON programs, some covering all medical facilities (acute, outpatient, long term care, etc.) and some limited to only acute care hospitals. Whether CON laws still serve a purpose, particularly in large markets, continues to be a topic of debate. However, data does exist showing that smaller markets are more sensitive to the duplication of infrastructure and that costs may ultimately rise when hospital services are fractured between competitors.

Revenues from more profitable services, such as surgery and radiology are often used to support mission driven hospital programs. For example, the Greater Fairbanks Community Hospital Foundation is just completing a \$9,500,000 cancer center. Though we are excited about offering this needed service, it is not justifiable in terms of its financial return. To dismantle the CON program eliminates the states' ability to look at how duplication may impact the quality and cost of care available to Alaska's communities.

Finally, oversight over potential government impacts because of increased medicaid costs would be lost. Historically, this is one of the fundamental reasons for CON programs and may be of some concern for the legislature as it struggles with growing fiscal gaps.

We respectfully request that you reconsider this legislation and continue the state CON program.

Sincerely,

Mike Powers, Administrator

Rick Solie, Director of Community Relations

Subject: HB 297

Date: Thu, 17 Feb 2000 03:25:36 EST

From: PickdatsMe@aol.com

To: Representative_Fred_Dyson@legis.state.ak.us

Dear Rep. Dyson:

As a fellow Eagle River resident, please vote to pass HB 297. The state will only continue to benefit from an Ambulator Surgery Center with the passing of this bill.

I appreciate your time.

Kim Pickerel, RN

19040 Trail Bay Drive

Eagle River, AK 99577

email: Pickdatsme@aol.com



GOLDEN VALLEY ELECTRIC ASSOCIATION INC. PO Box 71249 • Fairbanks, Alaska 99707-1249 • 907-452-1151

February 9, 2000

Representative Fred Dyson
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Dear Representative ^{Fred}Dyson:

I strongly oppose House Bill 297 and Senate Bill 195 relating to the certificate of need (CON) program.

In Alaska's limited market, these bills simply shift demand from community hospitals who have years of proven commitment to their communities, to out-of-area providers who can demonstrate no competitive price advantage to Alaska residents. These bills inconsistently treat health providers: those who can refer patients to their own facilities vs. those who cannot, yet must address more complex health issues at the same competitive cost.

My experience consists of ten years of service as a hospital board member in Fairbanks and CEO of one of the largest employers in the Interior, yet my concern extends to communities beyond Fairbanks. Many community hospitals across Alaska serve a small population with 24-hour, seven-day-per-week care, whether patients can pay or not.

I strongly oppose efforts to cherry pick the highly profitable hospital services in our limited market without a proven reduction in the cost of health care. I urge you to oppose HB 297 and SB 195.

Best regards,

Michael P. Kelly
President & CEO

c: Interior Legislative Delegation
Commissioner Karen Perdue
Governor Tony Knowles

February 20, 2000

RE: HB297

Dear Representative Dyson:

I feel the time constraints for testimony during the committee hearing on HB297 on Thursday, February 10th were such that it was impossible to give full information to the committee members, especially the historical data.

Historical Preface

1976, Alaska Surgery Center was established as a non-profit organization by a group of physicians dissatisfied with the local hospitals because of their high fees and service. The State of Alaska did not license nor require a CON for an ambulatory surgical facility.

1977, First cases performed in February. Even without a license, the State of Alaska and insurance companies recognized the Surgery Center as a quality, cost efficient surgical provider for their clients.

1981, The IRS advised ASC to change the tax status of the surgery center to "for profit" and CON process began for replacement facility.

1983, State licensing criteria for ambulatory surgical facilities was established and construction begun for replacement facility, which we now occupy.

1984 ASC moved to the new facility. Providence Hospital submitted an offer to purchase Alaska Surgery Center.

1985, Alaska Surgery Center sold to AlternaCare Corporation.

1988, AlternaCare Corp. purchased by Medical Care International

1994, Medical Care International purchased by Columbia HCA, and by the order of the FTC, the Alaska Surgery Center was divested.

1996, HealthSouth's purchase of Alaska Surgery Center approved by FTC.

1999, Request for an "expedited" CON review for the replacement facility denied. 95,800 patients have been treated at Alaska Surgery Center since February of 1977.

During the "Health, Education & Social Services Committee" hearing on HB 297 occurred Thursday February 10th, the state hospital's special interest group representatives, administrators, and employees all appeared to speak from the same script. The very same script was used in 1982 when the Alaska Surgery Center first applied for a CON. I'm afraid you and your committee members were left with the impression that surgery centers "cherry pick or skim" only highly profitable surgical procedures. This is absolutely untrue.

Alaska Surgery Center 1999 statistics indicate the most frequently performed procedure was extraction of cataract with lens implant. Over 95% of the patients having this procedure performed are on Medicare. Payment to surgery centers for Medicare patients are established by Health Care Financing Administration. Ambulatory surgical centers must utilize one of eight payment groups, which include all supplies and services rendered, (with the exception of some implants and eye replacement lenses). The lens reimbursement is capped at \$150 even though some of the newer multifocal lenses are significantly more expensive. The Medicare recipient's co-pay at a surgery center is 20% of the group rate established by the Federal Government. The State Medicaid program is mandated to follow the Federal payment groups. Hospitals are reimbursed at a **higher** blended rate for outpatient surgical procedures and the patient is responsible for 20% of the hospitals charges, not of any set payment group. For example, cataract extraction with lens implant payment group is \$1000 at the surgery center, and the patient's co-payment is \$200. If a hospital's charge is \$2000, the patient's co-payment would be \$400. **In 1999 the Alaska Surgery Center wrote over 1 million dollars or 56.1% of our gross billings for Medicare, Medicaid and self pay/charity patients.**

Rep. Kemplen asked me if the requested \$7,000,000 cap was sufficient to build a surgery center. I said I was not sure because I do not know what methodology the CON reviewers will apply. Seven million dollars would be sufficient for just the replacement for our present facility. However, if the reviewers apply the same methodology they used on one of the Fairbanks surgery center CON applications, it would not. The project called for a surgery center on the first floor of a new building with physician offices on the second floor. The total cost of the project was subject to review even though physician's offices are not part of the CON statute regulations. HealthSouth plans to relocate four different services to the same building; the surgery center, diagnostic imaging, occupational medicine and physical therapy in addition to physician offices. The \$7,000,000 cap would not be sufficient if the reviewers insist the entire cost of the project be included and not just the surgery center as per statute. All four of these services are presently located within a 2 block area of each other in Anchorage.

The FTC document concerning the acquisition of the Alaska Surgery Center by Columbia/HCA stated in paragraph 11,

"The effect of the aforesaid acquisition may be substantially to lessen competition in the relevant market in the following ways, among others:

- a. it would eliminate actual & potential competition . . .
- b. it would significantly increase the already high level of concentration in the relevant market
- c. it would eliminate MCA's outpatient surgery facility from the relevant market as a substantial, independent competitive force
- d. it may increase the possibility of collusion or inter-dependent coordination by the remaining firms in the relevant market; and
- e. it may deny patients, physicians, third-party payers, and other consumers of outpatient surgery services in the relevant market the benefits of free and open competition based on price, quality and service.

The present structure for the Alaska Surgery Center must be replaced in order to comply with new regulations and to remain a competitive force in the Anchorage market. The intent of the CON was to reduce medical costs, not limit competition. The Surgery Center has been performing surgical cases since February of 1997 and does not present "fragmentation of dilution of patient care". We do present competition to the hospitals. The added burden of the CON process, coupled with our short season for enclosing a new building, increases the costs. This, in turn, is passed on to the consumer. I strongly urge you to support the passage of HB297.

If you have questions or need for further information, I can be reached at the Alaska Surgery Center, 907-563-3327, or e-mail: lbjornst@chugach.net.

Sincerely,

Louise Bjornstad
Alaska Market Manager for HealthSouth
4001 Laurel St., suite 201
Anchorage, AK 99508
(907) 563-3327

I-LS1303G
Chenoweth/Lauterbach
2/8/00

CS FOR HOUSE BILL NO. 297()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES JAMES, Rokeberg, Kott

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the certificate of need program; and providing for an
2 effective date."

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

4 * Section 1. AS 18.07.031(a) is amended to read:

5 (a) A person may not make an expenditure of

6 (1) \$7,000,000 [\$1,000,000] or more for any of the following unless
7 authorized under the terms of a certificate of need issued by the department:

8 (A) [(1)] construction of a health care facility that is not a
9 nursing home;

10 (B) [(2)] alteration of the bed capacity of a health care facility
11 that is not a nursing home; or

12 (C) [(3)] addition of a category of health services provided by
13 a health care facility that is not a nursing home;

14 (2) \$1,000,000 or more for any of the following unless authorized

1 under the terms of a certificate of need issued by the department:

2 (A) construction of a health care facility that is a nursing
3 home;

4 (B) alteration of the bed capacity of a health care facility
5 that is a nursing home; or

6 (C) addition of a category of health services provided by a
7 health care facility that is a nursing home.

8 * Sec. 2. AS 18.07.031(c) is amended by adding a new subsection to read:

9 (c) In determining the expenditure threshold in (a) of this section, the
10 department may consider only the estimated costs associated with the excavation,
11 erection, building, alteration, reconstruction, improvement, extension, or modification
12 of the health care facility under this chapter, and the lease or purchase of equipment,
13 necessary furnishings, and ancillary requirements for the health care facility, but may
14 not consider the estimated costs of associated facilities such as the offices of health
15 care professionals maintaining a private practice that are incorporated into or are made
16 part of the health care facility.

17 * Sec. 3. AS 18.07.111 is amended by adding a new paragraph to read:

18 (10) "nursing home" has the meaning given in AS 08.70.180.

19 * Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section
20 to read:

21 APPLICABILITY. AS 18.07.031(a), as amended by sec. 1 of this Act, applies to an
22 activity listed in AS 18.07.031 even if a certificate of need for the activity is pending on the
23 day before the effective date of this Act.

24 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

January 31, 2000

Dear Representative:

I am an anesthesiologist in Fairbanks and in the Matanuska Valley in Alaska. This is a letter in support of dismantling the certificate of need process which currently blocks diversification of medical facilities available to patients in Alaska.

The certificate of need (CN) process is theoretically put in place to allow construction of medical "centers of excellence" in areas where competition would be detrimental to a community's resources. Proponents of enforcing the CN process will argue that it supports the survivability of exclusive health care resources to patient populations in areas that cannot support two such competing entities. This argument is viable in unsophisticated areas with minute populations and poor insurance remuneration for the medical services that are rendered in them. There may have been a time when Alaska's communities fit this description, but it has long since passed.

The certificate of need process (CN) now serves the interests of big business only. Unlike the lower 48 states, Alaska enjoys almost zero-percent managed healthcare market penetration. This translates into big remuneration for healthcare facilities in Alaska; indeed, the State has the best health insurance remuneration rates in the country. These excellent reimbursement rates allow Providence Hospital and Alaska Regional Medical Center to operate as the most profitable hospitals in their respective nationwide networks.

These cash-rich not-for-profit facilities further enhance their businesses by actively working to restrict potential competitors. The primary way that powerful Alaska hospitals achieve this end is by political lobbying for continued enforcement of CN in the areas that they do business. Healthcare facilities such as Providence Medical Center and Fairbanks Memorial Hospital are viscous in their anti-competition behaviors and will stop at nothing to maintain their exclusive market positions. These behaviors are self-serving and do not serve Alaska's citizenry.

I ask you to support the elimination of the certificate of need process in Alaska. A vote for elimination of this process is a vote for expansion and diversification of the State's healthcare resources, and hence for growth in the health care market. A vote against elimination of the CN process is a vote for big business and will result in a continued health care monopoly in Alaska.

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

Sincerely,

John D. Rosoff, MD

John D. Rosoff
PMB 221
3875 Geist Road, Ste. E
Fairbanks, AK 99709
Cell: 907/360-8213
Voice/fax: 907/456-4439
picobella@aol.com

Subject: FAIRBANKS SURGERY CENTER

Date: Tue, 30 Nov 1999 09:12:06 -0900

From: "Dr. Jon Lieberman" <jlieberman@mail.tvcclinic.com>

To: brian porter <Representative_Brian_Porter@legis.state.ak.us>

Dear Representative Porter:

I am a general surgeon in Fairbanks, Alaska at Tanana Valley Clinic.

I am sending this message in support of a Fairbanks surgery center that should be separate from Fairbanks Memorial Hospital. I have many patients that need to have surgery but wish to not go to the hospital for ambulatory surgery. Furthermore, the patients feel that the hospital charges too much for there ambulatory surgery service. Healthy competition would improve quality of health care and lower costs.

There was a recent competition for a Fairbanks Surgery Center Certificate of Need. Tanana Valley Clinic, Fairbanks Surgery Center, and Fairbanks Memorial Hospital all competed for this certificate. The State came back with the decision that there was no need for a surgery center. The Fairbanks community knows that this is a politically motivated decision facilitated by aggressive lobbying on the part of the Fairbanks Memorial Hospital Foundation

I think that the "Certificate of Need" process was an exercise that lent the appearance of fair play. In fact, I think that decisions were made covertly and are not in the best interest of the Fairbanks community.

Sincerely
Jon F. Lieberman, M.D.
General Surgeon
Tanana Valley Clinic

Tanana Valley Clinic

Family Medical Care
Since 1956

FEB 07 2000

February 1, 2000

OBSTETRICS & GYNECOLOGY

Richard E. Anderson, M.D.
Karl B. Elliott, M.D.
Dore E. Heston, M.D.
Richard C. Heston, M.D.
Rogel G. Heston, M.D.
Rogel S. Heston, M.D.
Jan Sorenson, ChM

OBSTETRY

Jan Sorenson, M.D.
David Wright, M.D.

INTERNAL MEDICINE

Lynn L. Gustin, MD
Kathleen C. Steink, M.D.
Jonathan R. Steink, M.D.
Ann Chu, M.D.

PEDIATRICS

Steven E. Bergquist, M.D.
J. Timothy Foss, M.D.
Michaela Ross, M.D.
Henry J. Sorell, M.D.
Michaela E. Sorenson, M.D.
Judy Sorenson, ChM

FAMILY PRACTICE

Donna Ross, M.D.
Homer Jackson, M.D.
Cynthia Lovell, M.D.
Charles Stewart, M.D.
Joan M.H. Tappan, M.D.
Dennis Rogers, F.A.C.
Scott Coleman, F.A.C.
Laurie Coleman, F.A.C.
Paul Papp, F.A.C.
Walter Bentley, D.O.
Catherine Schwab, F.M.P.

ORTHOPEDICS

Richard H. Collins, M.D.
Jim Tamm, M.D.

ADMINISTRATION

Brian Proulx, Administrative
Secretary J. Palmer, Controller
Henderson Tamm, Director of Human Resources
Cathy Morris, Chief Financial Officer

Representative Fred Dyson
State Capitol, Room 104
Juneau, AK 99801-1182

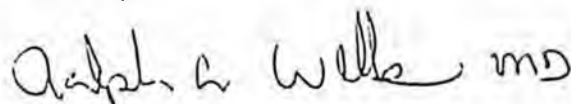
SUBJECT: Certificate of Need for Out-Patient Surgical Facilities.

Dear Representative Fred Dyson:

I am sure you are aware of the recent Certificate of Need hearings in Fairbanks regarding a proposal by three different entities to construct an out-patient surgical facility. The Tanana Valley Clinic was one of the applicants in this process. The certificate was denied to all of the applicants based on data which suggested that there was no need for such a facility. The physicians of the Tanana Valley Clinic feel that the data was somewhat flawed as it came primarily from records of the Fairbanks Memorial Hospital and may not have reflected patients who chose to have surgery elsewhere due to the high cost locally. We feel that a small out-patient surgical center would be able to offer more cost-effective services in Fairbanks. I would like to raise an important point for your consideration and that is that the certificate of need was originally established in 1976 to prevent the unnecessary duplication of high cost items or facilities. Based on the original limit of 1 million dollars in 1976, the increased cost of living would relate to a current limit of 5 million dollars. If one considered the increase in medical cost since 1976, the 1 million would relate to 7 million dollars at the current time. A legislative remedy to this dollar limitation would obviate the entire complicated certificate of need process in regard to this proposed facility. I would urge you to support legislation which we expect to be introduced which would address this problem.

Thank you very much for your consideration.

Sincerely,



Ralph A. Wells, M.D.
Obstetrics/Gynecology

RAW/dr

Subject: Opposition to HB 297

Date: Mon, 7 Feb 2000 20:37:43 -0900

From: "Jerry L. Woods" <bellwoodbnb@juno.com>

To: Representative_Fred_Dyson@legis.state.ak.us

CC: Representative_Joe_Green@legis.state.ak.us, Representative_Carl_Morgan@legis.state.ak.us,
Representative_Jim_Whitaker@legis.state.ak.us, Representative_Tom_Brice@legis.state.ak.us,
Representative_AllenKemplen@legis.state.ak.us,
Representative_John_Coghill@legis.state.ak.us,
Representative_Jeanette_James@legis.state.ak.us

Dear Representative:

Certificate of Need

I am a Board of Trustees member and Board Treasurer for the Wesley Rehabilitation and Care Center (WRCC) in Seward, Alaska. Serving for the last three years in this voluntary position has made me keenly aware of the difficulties facing those agencies whose goals and mission direct them to serve the public and, in the case of WRCC, in a private, non-profit status. Our board takes very seriously the need to be licensed and regulated in the protection of the public.

I urge you to vote against HB297. This bill was introduced on behalf of an individual whose CON application was denied. The hospital and nursing home association did not ask for this bill and is not supporting it.

There are several reasons for you to oppose the bill including:

- 1) There are significant fiscal implications to the State's Medicaid budget if this bill is approved. Yet, this bill received only one committee referral, that of HESS. It should be referred to the Finance Committee where the complex questions relating to Medicaid can be appropriately dealt with.
- 2) The growth in the consumer price index and the inflation factors used in the Medicaid rate setting process do not support increasing the dollar threshold for CON review from \$1 million to \$7 million. Using the CPI could potentially increase the threshold to \$2 million.
- 3) The timing of the bill is not appropriate. Alaska hospitals are going through significant debate and negotiations regarding changes to the Medicaid rate setting process. CON approval assures that the capital costs are considered in the rate setting. The balance of regulatory review and Medicaid rate setting is an issue for all Alaska hospitals.
- 4) All Alaska hospitals and nursing homes are opposed to this bill. Who does this bill benefit? Not the industry. And not the public. This bill aids only one small special interest group.
- 5) Hospitals have the full expense of emergency services, bad debts, and charity care and other services that are unprofitable but needed in the community. When patients leave the hospital for the allegedly less expensive ASC, the fixed costs of the existing facility will be spread among fewer patients, inevitable increasing the cost to other patients. CON review allows for any price advantage individual consumers may obtain to be weighed against the increased cost to the entire community.
- 6) Healthcare marketplace competition works only in states where capitated and other prospective payment systems are controlling health care costs. Eleven of the states that eliminated CON did so in the mid-1980's primarily in response to the managed care environment. Alaska does not have capitated health care plans, we have no HMOs, and very low managed care.
- 7) The bill does not help to assure access to quality health care for all Alaskans.

Please vote against HB 297.

Sincerely,

Jerry L. Woods

Seward

ALASKA STATE

HOSPITAL & NURSING HOME

ASSOCIATION

February 7, 2000

Representative Fred Dyson
Chair, Health, Education and Social Services
State Capitol
Juneau, AK 99801-1182

Dear Representative Dyson:

RE: Opposition to HB 297

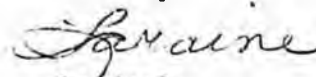
I am writing as the representative of the Alaska State Hospital and Nursing Home Association (ASHNHA). ASHNHA is an association of hospitals and nursing homes in the State of Alaska. With the exception of Mt. Edgecumbe Hospital, all hospitals and nursing homes belong to the Association. At ASHNHA's winter Board meeting on January 20, 2000, the Board voted to oppose the certificate of need legislation (HB 297) in favor of having the law remain as it is currently written.

There are several reasons I am asking you to oppose the bill. Member hospitals, trustees and other concerned providers will be communicating this week their opposition to this legislation. Since they are directly involved in the delivery of health care to your constituents, I will let them iterate the details. The legislation will probably not affect the smaller, rural hospitals as there is not enough business in these communities for additional facilities. It will affect hospitals in medium to large population centers.

However, my concern is with all facilities in the State. Hospitals must deliver care to all who come to their doors, twenty-four hours a day, whether they can pay or not. Other types of providers, i.e., ambulatory surgery or imaging centers do not. As so frequently happens, we get unintended consequences with legislation. If HB 297 passes from your committee, minimally, I would like to see it referred to the Finance Committee so that there might be a comprehensive analysis to determine what the financial effect on Medicaid would be.

As I said earlier, you will be hearing from health care professionals regarding the specifics of opposing the bill. (I am attaching a list of concerns they will be addressing!) If you would like to discuss ASHNHA's opposition to this legislation with me, please do not hesitate to contact me.

Sincerely,



Laraine L. Derr
President/CEO

Attachment (1)

Reasons for CON to be retained

1. CON promotes the sharing of services, especially in rural areas, where operational and administrative costs can threaten facility survival.
2. CON process can assure community access to high dollar services. The commitment of providers to a community mission, which built public trust, is being eroded by some corporate business practices, which generate profits, often without any community benefit.
3. CON assists in making the health care system more accountable to average residents in their communities. It is a challenge to facilitate the development of a responsible marketplace, one in which the sought after benefits of competition are realized.
4. Change to the Medicaid Rate Setting program affects capital costs; thus the timing is not right to change CON. The balance of regulatory review and Medicaid rate setting is an issue for all Alaska hospitals. Medicaid reimbursement is tied to CON approval.
5. Government is obligated to exercise sound stewardship of the public's resources, much of which it controls as a payer of services.
6. Systematic approach needs to be in place to assure that providers are not taking the "Cream off the top" of services provided by hospitals. Healthcare is a social good like safety and education, which, in a democratic society, requires intelligent government oversight in order to balance competing needs and priorities.
7. CON continues to have a role when there is an absence of 'managed care'. There is not a high level of managed care in Alaska. CON programs around the country are responding to changes in the marketplace and becoming more flexible tools of public policy. CON programs need to fit each state's policies for whatever degree of regulation is perceived as necessary to compensate for its market defects. In Alaska that means keeping CON review at the current \$1 million dollar threshold.
8. Marketplace competition has succeeded in some states where CON regulation has not, but this has been in states where capitated and other prospective payment systems are controlling health care costs by forcing providers to accept the financial risks associated with their economic decisions.
9. Private practicing physicians can already provide services to their own patients without going through CON review (for example the private office of radiation oncologists providing radiation therapy to patients in a community; or radiologists who purchase MRI units, CT scanners or other radiology services).

10. Final rules issued in November 1999 to Stark amendment now provide opportunities for physicians in rural areas to enter in some joint venture arrangements with hospitals without violating self-referral guidelines.
11. Inflation is not a good reason to increase the dollar threshold. There are several examples of equipment that is less expensive today than when the threshold was increased to \$1 million.
12. CON review has the ability to facilitate the development of a responsible marketplace, one in which the desired benefits of competition and real value in health care are realized.
13. CON is way for the State to control Medicaid expenditures.
14. 11 of the states that eliminated CON did so in the mid 1980's in response to the managed care environment.
15. According to the American Health Planning Association's January 1999 data 75% of the States had some form of CON review.



**Denali Center
Fairbanks Memorial Hospital**

Denali Center
1510 19th Avenue
Fairbanks, AK 99701
(907) 458-5100

Fairbanks Memorial Hospital
1650 Cowles Street
Fairbanks, AK 99701-5998
(907) 452-8181
Fax (907) 458-5324

February 3, 2000

Representative Fred Dyson
Alaska State Legislature
Juneau, Alaska

Hand carried

Dear Representative Dyson,

Fairbanks Memorial Hospital & Denali Center oppose Senate Bill 195 and House Bill 297 related to the certificate of need (CON) program, which governs health care facility construction in Alaska.

On its face, eliminating or modifying the CON program may appear to improve the quality of health care and lower costs, but in a state with the sparse population and vast geographic of Alaska's, it will likely have the reverse effect.

Roughly two-thirds of the states have some varying forms of CON programs, some covering all medical facilities (acute, outpatient, long term care, etc.) and some limited to only acute care hospitals. Whether CON laws still serve a purpose, particularly in large markets, continues to be a topic of debate. However, data does exist showing that smaller markets are more sensitive to the duplication of infrastructure and that costs may ultimately rise when hospital services are fractured between competitors.

Revenues from more profitable services, such as surgery and radiology are often used to support mission driven hospital programs. For example, the Greater Fairbanks Community Hospital Foundation is just completing a \$9,500,000 cancer center. Though we are excited about offering this needed service, it is not justifiable in terms of its financial return. To dismantle the CON program eliminates the states' ability to look at how duplication may impact the quality and cost of care available to Alaska's communities.

Finally, oversight over potential government impacts because of increased medicaid costs would be lost. Historically, this is one of the fundamental reasons for CON programs and may be of some concern for the legislature as it struggles with growing fiscal gaps.

We respectfully request that you reconsider this legislation and continue the state CON program.

Sincerely,

Mike Powers, Administrator

Rick Solie, Director of Community Relations



Alaska State Legislature

Please enter into the record my testimony to the Hsc. HESS
 committee name
 committee on HB260-Denali Kid Care dated 02-07-00
 bill/subject

Rep. Coghill seemed to say "supplying a need is not in question, the question is do we want to". "Government Health Care or Socialized medicine". My question is, do we believe the poor are held in bondage to their economic poverty by their bad acts or our choice as a society? ~~Transportation is not an option in most of Alaska~~ Do we believe early care prevents admission over a lifetime to jail, API, the emergency room? Who in the private sector provides the system wide care to help lift the poor out of the ghetto of poverty? Why leave them there?
 Having served on the API board for five years, I have seen the cost to children & families with no health care. The jails are filled with people who were once children. What purpose is served by keeping the "poor" poor?

Signed: Scott L. Wheat Testifier
 Scott L. Wheat

Representing (Optional): Mental Health Consumer Advocate - member of: M H C A
 M H C A
 N A M I

POB 2353 99603 Address
Ph/Fx: 235-6840 Phone No.
 Email: One-it-Wheat@hotmail.com

Post-It® Fax Note	7671	Date	2/8/00	# of pages	1
To	SUN HESS	From	HOMER L10		
Co./Dept.		Co.			
Phone #		Phone #			
Fax #		Fax #			



Alaska State Legislature

Please enter into the record my testimony to the HHE & SS Committee
 committee name
 committee on HB 260 , dated 02/08/2000
 bill/subject

Committee Members

I was my intention to testify at the Homer L10 but time constraints forced me to leave before it was my turn to testify.

Please find 2 pages attached that represent my intended testimony

For your information I've been a resident of Alaska since 1973 and have lived in Homer since 1977. Although my own children are beyond the scope of the Denali Kid Care Program (31, and almost 20) I appreciate the benefit of the Program to my community. I have worked in the Healthcare Field for 20 years now and have seen the positive benefits of preventive healthcare and early intervention.

Signed: Patricia A Boly
 Testifier

Self
 Representing (Optional)

4935 Clover Lane Homer AK 99603
 Address

907-235-7391
 Phone No.

Patricia A. Bailey
4935 Clover Lane
Homer, AK 99603

907-235-7391 hm
235-6127 wa

Page 2 of 3

I'm here because I object to Mr. Coghill's proposed changes - in spite of what he claims, I find them extremely mean-spirited.

In a state with 4.7% unemployment I find it significant that over 27% of those who are employed are government workers - city, borough, state & federal - virtually all of whom have the best benefit packages imaginable (and I believe our legislators are included in the state benefits;) then we have at least another 19% of workers who are non-residents (most of those do not have their families here in Alaska with them;) that leaves about 49% of us employed in the private sector - many of whom have either no insurance at all or inadequate insurance because it's hard for small businesses to find affordable health plans.

My point is, Denali Kid Care is a program that meets the needs of middle income families that are struggling to make it - there is nothing like unforeseen medical bills to blow apart your budget and send you spiraling into debt. Without adequate health insurance coverage, working families put off going to their family doctors for preventive health care and/or less serious illnesses - this puts them at risk of ending up in the emergency room or hospital with huge medical bills that can take months if not years to pay off - this affects the doctors & hospitals who render services they either don't get paid for at all or they extend credit for so long that it costs them more to send out the bills than to just write off the balances. This is cost shifting of the most expensive kind since intervention can often prevent more serious medical conditions from developing.

even 133%

The proposal to reduce the income qualification to ~~100%~~ of the poverty level will eliminate a significant number of children and pregnant women from the Denali Kid Care program. Mr. Coghill claims it will save the state Medicaid office up to \$19 million dollars eventually - how much of that will be shifted over to the family practitioners as unpaid bills for services and how much will the hospitals in Alaska have to absorb in

Patricia A Boily
4935 Clover Lane
Homer, AK 99603

907-235-7391 hm
235-6127 wk

page 3 of 3

unpaid outpatient and inpatient costs? I think the impact will be significant.

I have read everything given to me by the L.I.O. this morning and I particularly take offense at the inserted article from the Wall Street Journal with its quotes from the Heritage Foundation. It's my opinion that Mr. Coghill is trying to maintain his conservative credentials on the backs of those in the healthcare industry and by victimizing the least vocal and least powerful residents of this state. Why not go after that 27% of the workforce who enjoy the most liberal and luxurious benefit packages available? Why not go after that 19% who earn money in Alaska and take virtually all of it Outside to benefit their home state economies? Why hasn't Alaska come to terms with the dire need for State-wide health insurance for every single one of its residents? If Mr. Coghill put his energy into a plan where everyone who worked in this state contributed to a state insurance policy then all of us would have equal access to healthcare and a significant number of those who are now eligible for DKC would not require it since their working parent would have adequate, affordable health insurance.

Mr. Coghill says he doesn't think it is the government that should supply the solution for the peoples's healthcare needs but to me that is one of government's prime directives - to insure the health, education and well-being of its citizens. At this point, with the Federal Government contributing 72% of the cost, it is a bargain for the state of Alaska to protect the health & welfare of its youngest citizens - they are our future and deserve to be treated like the assets they are.

Please do not consider Mr. Coghill's's proposal but please do think about what it will take to make sure that all Alaskans have their healthcare needs covered.

Sincerely
Patti Boily aka Patricia A. Boily
907-235-7391

Alaska State Medical Association

4107 Laurel Street • Anchorage, Alaska 99508 • (907) 562-0304 • (907) 561-2063 (fax)

February 10, 2000

Honorable Fred Dyson
State of Alaska
House of Representatives
State Capitol, Room 104
Juneau, Alaska 99801-1182

RE: HB 297 — Certificate of Need

Dear Representative Dyson:

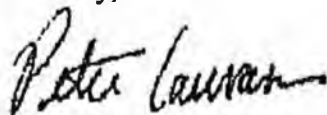
The Alaska State Medical Association (ASMA) represents Alaska's patients and the physicians who care for them.

ASMA welcomes the opportunity to provide you with testimony regarding HB 297. Simply put, ASMA supports HB 297, which changes the "trigger point" from \$1 million to \$7 million, that activates the certificate of need process.

ASMA has had policy since the early 1980s calling for repeal of the certificate of need process. But, until that is practicable, the policy supports the increase in the "trigger point."

ASMA again thanks you for this opportunity and urges that you support HB 297.

Sincerely,



BY: Peter Lawrason, MD, President

FOR: Alaska State Medical Association

cc: House HESS Members

JJJ/kms

Paul Allan
Fairbanks, AK

February 9, 2000

Alaskan Legislator
State Capitol
Juneau, AK 99801

Dear Legislator:

I would like to express my opposition to the passage of Senate Bill 195 and House Bill 297.

Eliminating the Certificate of Need (CON) program will raise the cost of quality Healthcare for most Alaskans as well as increasing the the cost to the state through Medicaid program growth. In the past the CON process has helped to eliminate the duplication of services and excess medical programs and facilities.

I strongly recommend that you defeat these two bills.

Sincerely,



Paul Allan

February 9, 2000

**Representative
State Capitol
Juneau, AK 99801-1182**

RE: Opposition to HB 297

Dear Representative:

I would like to voice my opinion and strongly urge you to vote against House Bill 297. I join our local hospital and the nursing home association who are not supporting it and who did not request this bill.

Please carefully consider some of the reasons for this opposition:

- **Important fiscal implications to the Alaska state Medicaid budget, if approved. I believe this is a matter for the Finance Committee to deal with.**
- **Increasing the dollar threshold for CON review by \$6 million is not supported by the consumer price index and inflation data for the Medicaid rate setting process.**
- **Timing of the bill is inappropriate due to changes in the Medicaid rate setting process.**
- **This bill only helps one small special interest group; it does not benefit the industry.**
- **CON review allows for any price advantage individual consumers may obtain to be compared against increased cost to our entire community. A reminder too that Alaska does not have capitated health care plans, no HMO's and very low managed care.**

My concern is for continuous quality health care for Alaskans. Not permitting this bill to pass will help in assuring that quality health care continues.

Please cast your vote against HB 297. Thanks for listening.

Sincerely,


KARL H. SANFORD

February 9, 2000

State Representative
State Capitol
Juneau, AK 99801-1182

RE: House Bill #297

Dear Representative:

VOTE AGAINST THE PASSAGE OF HOUSE BILL 297.

I join our community, our Alaskan hospitals, our nursing home association, and all concerned Alaskans who seek medical care in our state, in emphasizing the need for your vote against House Bill 297. I urge you to look closely at Medicaid rate setting if this bill should be permitted to pass, look closely at the structure and services of our hospitals in the state, look closely at what group this bill actually benefits.

I feel confident that your careful review and opinion will consider the serious consequences of House Bill 297. Please cast your vote against its passage.

From a voting Alaskan, I appreciate your time in listening, and considering my opinion.

Sincerely,


Helen M. LeFever

2942 Glenwood Drive
North Pole, Alaska 99705-6713

February 9, 2000

Representative
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Dear Representative:

The opposition of Senate Bill 195 and House Bill 297 is necessary.

All Alaskans deserve quality medical care. Eliminating the CON process would greatly jeopardize this care. The CON provides a checks and balance system that allows the state the opportunity to determine the need for new medical facilities. The elimination of this process would certainly bring about duplicate services, increasing medical costs and decreasing quality care.

Please, I strongly urge you to oppose these bills.

Thank you for your time.

Sincerely,



Carol Meyer

Jon Lundquist
Fairbanks, AK 99712

February 9, 2000

Senator
Alaska State Senate
State Capitol Building
Juneau, AK 99801-1182

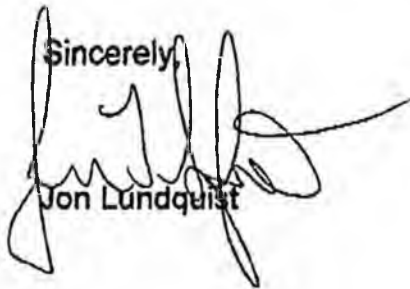
Dear Senator:

This letter expresses my opposition to Senate Bill 195 and House Bill 297, both relating to the Certificate of Need (CON) program. Deletion of the CON program would result in increased costs to the State of Alaska through increases in the growth of the Medicaid program.

The CON program in the past has helped to eliminate excess and duplication of medical programs and facilities. Currently ancillary services such as outpatient services, pharmacy, lab, radiology and outpatient surgery help to offset financially marginal services like mental health, emergency room services and general surgery. Without the CON program in place other entities will be able to "cherry-pick" the profitable services, leaving the Alaskan hospitals responsible for the least profitable, thereby resulting in higher overall costs and financially damaging community hospitals.

The CON program has proven helpful to Alaskan community hospitals in the past and I urge you to continue this valuable program.

Sincerely,



Jon Lundquist

(no subject)

PUT THIS IN MY PACKET
WHEN I HEAR THE BILL ON
CERTIFICATE OF NEED.
THANKS

Subject: (no subject)

Date: Tue, 1 Feb 2000 19:02:06 EST

From: Picobella@aol.com

To: Representative_Alan_Austerman@legis.state.ak.us,
Representative_Sharon_Cissna@legis.state.ak.us,
Representative_Gary_Davisi@legis.state.ak.us,
Representative_Andrew_Halcro@legis.state.ak.us,
Representative_Mary_Kapsner@legis.state.ak.us, Representative_Pete_Kott@legis.state.ak.us,
Representative_Lisa_Murkowski@legis.state.ak.us,
Representative_Jerry_Sanders@legis.state.ak.us,
Representative_Ramona_Barnes@legis.state.ak.us,
Representative_John_Coghill_Jr.@legis.state.ak.us,
Representative_Fred_Dyson@legis.state.ak.us, Representative_John_Harris@legis.state.ak.us,
Representative_Allen_Kemplen@legis.state.ak.us,
Representative_Beverly_Masek@legis.state.ak.us,
Representative_Scott_Ogan@legis.state.ak.us, Representative_Hal_Smalley@legis.state.ak.us,
Representative_Ethan_Berkowitz@legis.state.ak.us,
Representative_John_Cowdery@legis.state.ak.us,
Representative_Richard_Foster@legis.state.ak.us,
Representative_Bill_Hudson@legis.state.ak.us,
Representative_Beth_Kerttula@legis.state.ak.us,
Representative_Carl_Morgan@legis.state.ak.us,
Representative_Gail_Phillips@legis.state.ak.us,
Representative_Gene_Therriault@legis.state.ak.us,
Representative_Tom_Brice@legis.state.ak.us, Representat.ve_Eric_Croft@legis.state.ak.us,
Representative_Joe_Green@legis.state.ak.us,
Representative_Jeannette_James@legis.state.ak.us,
Representative_Vic_Kohring@legis.state.ak.us, Representative_Carl_Moses@legis.state.ak.us,
Representative_Brian_Porter@legis.state.ak.us,
Representative_Jim_Whitaker@legis.state.ak.us,
Representative_Con_Bunde@legis.state.ak.us, Representative_John_Davies@legis.state.ak.us,
Representative_Ben_Grussendorf@legis.state.ak.us,
Representative_Reggie_Joule@legis.state.ak.us,
Representative_Al_Kookesh@legis.state.ak.us,
Representative_Eldon_Mulder@legis.state.ak.us,
Representative_Norman_Rokeberg@legis.state.ak.us,
Representative_Bill_Williams@legis.state.ak.us

John D. Rosoff
PMB 221
3875 Geist Road, Ste. E
Fairbanks, AK 99709
Cell: 907/360-8213
Voice/fax: 907/456-4439
picobella@aol.com

January 31, 2000

Dear Representative:

I am an anesthesiologist in Fairbanks and in the Matanuska Valley in Alaska. This is a letter in support of dismantling the certificate of need process which currently blocks diversification of medical facilities available to

(no subject)

patients in Alaska.

The certificate of need (CN) process is theoretically put in place to allow construction of medical "centers of excellence" in areas where competition would be detrimental to a community's resources. Proponents of enforcing the CN process will argue that it supports the survivability of exclusive health care resources to patient populations in areas that cannot support two such competing entities. This argument is viable in unsophisticated areas with minute populations and poor insurance remuneration for the medical services that are rendered in them. There may have been a time when Alaska's communities fit this description, but it has long since passed.

The certificate of need process (CN) now serves the interests of big business only. Unlike the lower 48 states, Alaska enjoys almost zero-percent managed healthcare market penetration. This translates into big remuneration for healthcare facilities in Alaska; indeed, the State has the best health insurance remuneration rates in the country. These excellent reimbursement rates allow Providence Hospital and Alaska Regional Medical Center to operate as the most profitable hospitals in their respective nationwide networks.

These cash-rich not-for-profit facilities further enhance their businesses by actively working to restrict potential competitors. The primary way that powerful Alaska hospitals achieve this end is by political lobbying for continued enforcement of CN in the areas that they do business. Healthcare facilities such as Providence Medical Center and Fairbanks Memorial Hospital are viscous in their anti-competition behaviors and will stop at nothing to maintain their exclusive market positions. These behaviors are self-serving and do not serve Alaska's citizenry.

I ask you to support the elimination of the certificate of need process in Alaska. A vote for elimination of this process is a vote for expansion and diversification of the State's healthcare resources, and hence for growth in the health care market. A vote against elimination of the CN process is a vote for big business and will result in a continued health care monopoly in Alaska.

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

Sincerely,

John D. Rosoff, MD

CS FOR HOUSE BILL NO. 297()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsors: REPRESENTATIVES JAMES, Rokeberg, Kott

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the certificate of need program; and providing for an
2 effective date."

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

4 * Section 1. AS 18.07.031(a) is amended to read:

5 (a) A person may not make an expenditure of

6 (1) \$7,000,000 [\$1,000,000] or more for any of the following unless
7 authorized under the terms of a certificate of need issued by the department:

8 (A) [(1)] construction of a health care facility that is not a
9 nursing home;

10 (B) [(2)] alteration of the bed capacity of a health care facility
11 that is not a nursing home; or

12 (C) [(3)] addition of a category of health services provided by
13 a health care facility that is not a nursing home;

14 (2) \$1,000,000 or more for any of the following unless authorized

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under the terms of a certificate of need issued by the department:

(A) construction of a health care facility that is a nursing

home;

(B) alteration of the bed capacity of a health care facility

that is a nursing home; or

(C) addition of a category of health services provided by a

health care facility that is a nursing home.

* Sec. 2. AS 18.07.031(c) is amended by adding a new subsection to read:

(c) In determining the expenditure threshold in (a) of this section, the department may consider only the estimated costs associated with the excavation, erection, building, alteration, reconstruction, improvement, extension, or modification of the health care facility under this chapter, and the lease or purchase of equipment, necessary furnishings, and ancillary requirements for the health care facility, but may not consider the estimated costs of associated facilities such as the offices of health care professionals maintaining a private practice that are incorporated into or are made part of the health care facility.

* Sec. 3. AS 18.07.111 is amended by adding a new paragraph to read:

(10) "nursing home" has the meaning given in AS 08.70.180.

* Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. AS 18.07.031(a), as amended by sec. 1 of this Act, applies to an activity listed in AS 18.07.031 even if a certificate of need for the activity is pending on the day before the effective date of this Act.

* Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

AMENDMENT

In: House (HES)

To: CS HB 297(HES) 1-LS1303/D
Chenoweth/Lautherbach 2/8

Section 1, Page 2 line 6 through line 7 delete:

(C) addition of a category of services provided by a health care facility that is a nursing home.

Section 2, Page 2, lines 8-16, delete all material and renumber remaining sections accordingly.

Alaska State Legislature

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House District 34

Sponsor Statement

HB 297, Certificate of Need Program

2/3/00

I have introduced HB297 to amend the certificate of need program. This law was first enacted in 1976. At that time, the Federal government required all states to have a CON program. The process was intended to keep down health care costs by limiting construction of health care facilities and the acquisition of expensive medical equipment. The Federal government determined that the law did not produce the desired results and repealed their law in 1982.

Fourteen states have repealed their certificate of need laws. Most of these states have also placed a moratorium on the construction of long term care beds. Two states have CON laws that pertain only to long term care facilities. Legislation repealing and amending CON laws are being considered in many states.

The Federal Trade Commission has conducted studies on the effects of state certificate of need laws. They have found that government restrictions on competition are a major source of consumer injury and CON laws actually cause higher health care costs. It is also interesting to note that the FTC recognized the need for competition in the Anchorage health care market in a 1994 antitrust ruling against Columbia/HCA. Their ruling prevented what they called "the probability of collusion among remaining sources of outpatient surgery and could, therefore, deny patients and others the benefits of competition based on price, quality and service for outpatient surgery services in Anchorage."

As we have found with other government created monopolies, the consumer seems to be the one who suffers. Restricting competition prevents the benefits that can be derived from new and innovated ways.

SPONSOR STATEMENT

Alaska's certificate of need law was amended in 1983 to establish a threshold of one million dollars on intended capital expenditures before a CON was necessary. The bill I have introduced will increase that threshold to seven million dollars. While I favor eventual complete repeal of the law, I think this will be a very valuable step in that direction. This will allow for competition in our health care industry in those areas where sufficient needs exist. Although they will try to tell you otherwise, this competition will not injure existing providers. It will make them better and all Alaskans will benefit.

It is my intent that this change in the law would not affect in anyway the requirement for a certificate of need for the construction or acquisition of long term care facilities.