



Private 5 Bed Assisted Living Home	154,600.00	7.5	20,346.33
------------------------------------	------------	-----	-----------

\*Taken from the Pioneers Homes approved Projected Profit and Loss Statement

The Department of Senior and Disability Services approved cost per resident at the Fairbanks Pioneers Home is 41% higher than what will be allowed by the Department of Senior and Disability Services for private assisted living homes. Also, the difference between the Department of Senior and Disability Services approved cost per employee at the Fairbanks Pioneers Home compared to the cost for an employee in the private assisted living home is 54% higher for the Pioneer Home employees than a private assisted living home employee. Not only is the cost higher but also the Pioneer Homes has the ability to pick and choose the type of resident they will accept from their waiting list.

The Pioneer Homes do not provide services for the high level of care residents such as quadriplegics. The resident that require a higher level of care will be provided by the private assisted living homes and will increased the burden on the private assisted living homes.

In essence the Pioneer Homes take the cream of the crop and leave the harder more demanding cases to the private assisted living homes.

These unconscionable differences created by the Department of Health and Social Services, Division of Senior and Disability Services will force the private assisted living homes out of business. The Department of Health and Social Services, Division of Senior and Disability Services are also creating a socialist system by which the government will be the only provider of assisted living at a cost to the taxpayer well in excess of private business.

Imposing a cap on private assisted living homes while allowing the State of Alaska Pioneer Homes to receive 41% to 54% higher allowance must be viewed as an intent by the State of Alaska to force private business out of business and this results in unjust taking by the State of Alaska.

What we are asking for is equality. If we apply the same standards then the private assisted living homes should have the amount allowed for their personnel costs increased by 54% to remain competitive with the State of Alaska Pioneers Homes.

We are looking forward to your written response

Thank You,



Monta Fayu Lane

President, Northern Assisted Living Association

**Northern Assisted Living Association**  
109 East 5<sup>th</sup> Ave  
North Pole, AK 99705

APR 25 2005

April 20, 2005

Dear Representative Wilson,

Due to a change the Pioneer Homes were designated as an assisted living facility by the State of Alaska in 2004 and can now receive choice waiver payments for the residents who live there. The Pioneer Homes Projected Profit and Loss Statement were completed and approved by the Department of Health and Social Services, Division of Senior and Disability Services just recently and the Pioneers Homes will not be required to submit new Projected Profit and Loss Statement for at least two years. A large percentage of the private assisted living homes are required to resubmit new Projected Profit and Loss Statement in July of 2005. It is my understanding that the Department of Health and Social Services, Division of Senior and Disability Services will be instituting a cap of \$154,600.00 for total personnel cost for all 5 bed assisted living homes that will be submitting new Projected Profit and Loss Statement. Because the Pioneers Home has already received approval of their Projected Profit and Loss Statement prior to the cap taking effect the only ones who will be adversely affected will be the private assisted living homes that have to resubmit their Projected Profit and Loss Statements

The private assisted living homes will not be able to stay in business with the inequity that exists between the amount approved by the Division of Senior and Disability Services for the Pioneers Homes versus the cap imposed on the private assisted living homes.

We did a comparison of a 5 bed assisted living home with the Department of Senior and Disability Services personnel cost cap and the Fairbanks Pioneer Homes approved personnel cost and we compared the cost per employee.

As you can see there is a sizable difference.

**Comparison of cost per resident**

	<b>Total Cost Allowed by DSDS</b>	<b>Number of Residents Per facility</b>	<b>Cost per Resident</b>
Pioneer Home Fairbanks *	4,992,818.00	97	51,472.35
Private 5 Bed Assisted Living Home	154,600.00	5	30,520.00

- Taken from the Pioneers Homes approved Projected Profit and Loss Statement

**Comparison of cost per employee**

	<b>Total Cost Allowed by DSDS</b>	<b>Number of Employees Per facility</b>	<b>Cost per Employee</b>
Pioneer Home Fairbanks*	4,992,818.00	111.6	44,738.51
Private 5 Bed Assisted Living Home	154,600.00	7.5	20,346.33

\*Taken from the Pioneers Homes approved Projected Profit and Loss Statement

The Department of Senior and Disability Services approved cost per resident at the Fairbanks Pioneers Home is 41% higher than what will be allowed by the Department of Senior and Disability Services for private assisted living homes. Also, the difference between the Department of Senior and Disability Services approved cost per employee at the Fairbanks Pioneers Home compared to the cost for an employee in the private assisted living home is 54% higher for the Pioneer Home employees than a private assisted living home employee.

Not only is the cost higher but also the Pioneer Homes has the ability to pick and choose the type of resident they will accept from their waiting list. The Pioneer Homes do not provide services for the high level of care residents such as quadriplegics. The resident that require a higher level of care will be provided by the private assisted living homes and will increase the burden on the private assisted living homes. In essence the Pioneer Homes take the cream of the crop and leaves the harder more demanding cases to the private assisted living homes.

These unconscionable differences created by the Department of Health and Social Services, Division of Senior and Disability Services will force the private assisted living homes out of business. The Department of Health and Social Services, Division of Senior and Disability Services are also creating a socialist system by which the government will be the only provider of assisted living at a cost to the taxpayer well in excess of private business.

Imposing a cap on private assisted living homes while allowing the State of Alaska Pioneer Homes to receive 41% to 54% higher allowance must be viewed as an intent by the State of Alaska to force private business out of business and this results in unjust taking by the State of Alaska.

We are asking for equality. If we apply the same standards then the private assisted living homes should have the amount allowed for their personnel costs increased by 54% to remain competitive with the State of Alaska Pioneer Homes.

We are looking forward to your written response.

Thank You,

*Monta Faye Lane*

Monta Faye Lane  
President,  
Northern Assisted Living Association

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard  
Baltimore, Maryland 21244-1850



Center for Medicaid and State Operations/Survey & Certification Group

---

MAR 21 2005

Frank Murkowski, Governor  
Office of the Governor of Alaska  
P.O. Box 11001  
Juneau, AK 99811

RECEIVED

MAR 25 2005

Division of Public Health

Dear Governor Murkowski:

I would like to extend my sincere congratulations to the State of Alaska on your successful application and willingness to participate in the Centers for Medicare & Medicaid Services (CMS) Background Check Pilot Program. As you are aware, CMS has approved your state to receive an award of \$ 4,899,844 to fund the implementation of this important pilot.

This three-year pilot will help to evaluate the impact of conducting national background checks on new workers to reduce abuse and neglect in long-term care facilities. The pilot also will help to determine a variety of best practices in conducting efficient, effective and economical state and national background checks.

On March 9-10, 2005, representatives from the seven pilot states (Alaska, Idaho, Illinois, Michigan, Nevada, New Mexico and Wisconsin) attended the CMS Background Check Pilot kick-off conference in Baltimore. The attendees shared information regarding their state's progress in implementing the pilot program and established important connections and networks for discussing background check issues.

Please be assured that CMS is deeply committed and strongly supports Alaska's participation and the pilot's successful implementation overall. We appreciate your continued support of the pilot and urge you to assist the Department of Health & Social Services in overcoming the challenges inherent in implementing a state program (e.g., securing necessary state authority, recruiting qualified staff, establishing partnerships and collaboration among state agencies, etc.). CMS will also work with Alaska to creatively resolve any potential policy issues or challenges that may be a barrier in the implementation of your state's pilot program.

Once again, my congratulations on Alaska's selection and willingness to participate in the CMS Background Check Pilot Program.

Sincerely,

A handwritten signature in cursive script that reads "Thomas E. Hamilton".

Thomas E. Hamilton  
Director

Cc: Virginia Stonkus, Alaska Department of Health & Social Services ✓

**Position Paper on House Bill 193 Offered by Rod Betit, President ASHNHA  
Before House HESS Standing Committee  
March 15, 2005**

Mr. Chairman, members of the Committee, I am Rod Betit, President of the Alaska State Hospital & Nursing Home Association. ASHNHA's membership includes all but one of the 31 hospitals and nursing homes throughout the State.

This legislation is directed at consolidating the Department's many licensing responsibilities, introducing more stringent requirements in some provider categories, and strengthening the criminal background investigation system for certain employees of these regulated providers.

ASHNHA generally supports the Department in its efforts to bring greater administrative efficiency and consistency across its broad array of licensing responsibilities, and to strengthen oversight in some areas. ASHNHA's members have been under stringent licensing and annual inspection requirements for many years. While ASHNHA members have great experience with the tedious, burdensome nature of these review processes, others will certainly find them onerous if they have not been exposed to them before.

Nonetheless, we believe that the "oversight" role of the Department is one of the most important functions state government performs so long as the performance standards are reasonable, the administrative remedies implemented by the Department are fair, and there is a healthy measure of due process for the providers and individual(s) being impacted by the Department's decisions.

While we support the Department's efforts to bring greater consistency and improved efficiency to this area, we have problems with this bill as written.

We recommend the Committee amend a few sections of the bill for purposes of clarifying the policy outcome the Department is attempting to achieve. Our concerns include the following sections:

**Sec. 47.32.140. (a) Page 8, Lines 29-03 on Page 9:**

- This section introduces a new remedy that the Department can employ when there is likelihood of immediate danger to an individual(s) being served. In those situations this new Section permits the Department to terminate a provider with no hearing opportunity, no court review, and no opportunity to correct the "perceived violation". Current law (AS 18.20.360) requires the Department to petition the Superior Court for appointment of a temporary manager when "immediate danger" is present. This new language would allow the Department to bypass that step and simply appoint a temporary manager without court review of any kind.
- This new language introduces a high stakes licensing remedy with very serious implications for all concerned. Given the lack of any recent need to take this action, we question the advisability of exposing the State to the magnitude of liability this could produce.

**Position Paper on House Bill 193 Offered by Rod Betit, President ASHNHA  
Before House HESS Standing Committee  
March 15, 2005**

- If this Committee believes this new remedy is needed we recommend hospitals and nursing homes be excluded given effectiveness of existing provisions of law, and lack of any evidence this is needed.
- If the Committee believes the department should have authority to take this extraordinary action it should only be with the express approval of the Commissioner, in writing, with a clear written finding that continued care by the provider would be more injurious than attempting to work with the provider to correct the deficiencies while banning any new admissions to the program.
- Further, if this action is taken by the Department it must be clear who is responsible for the care of the patients/residents/children from the moment the license is revoked. Clearly the provider would no longer have legal authority to direct the care of the impacted individuals. The Department would have to immediately designate a temporary manager of the facility and assume all day-to-day operational responsibilities, financial liabilities for operation of the program and liability for any care provided until the situation is resolved. This is very tricky business with a great deal of liability for the State. I have actually done this in both Alaska and Utah and I can tell you this is no place for the faint of heart.
- In the case of hospitals and nursing homes, if the Department chooses to close a facility and transfer the patients it must be clear that the responsibility rests with the State to achieve this without harm to any of the residents. This would include finding appropriate beds, arranging medical transportation appropriate for each patient's medical condition, coordinating with families/guardians, and monitoring of the patients health status throughout the transfer process until the patients/residents are settled into their new facility. Again, this is a monumental task.
- Back in the late 1970's while employed by the Alaska Dept of Health & Social Services I actually exercised a "cease and desist" order against the management of a Fairbanks nursing home. I personally took possession of the facility. I had accompanying me additional administrative staff, extra nursing staff from around the State, and law enforcement to maintain order during the transition. This "takeover" had a successful outcome some weeks later as the facility was sold to Fairbanks Memorial Hospital and has had a solid patient care reputation ever since. However, there were many points at which something could have gone wrong and the State could have been liable.
- While in Utah I exercised similar closure orders against 4 additional facilities with reasonable outcomes. In each case an expedited court review was conducted and the State's justification to take the action was upheld. In each of these cases I installed a Temporary Manager reporting directly to me, and we proceeded to transfer all patients to other facilities as quickly as could be arranged. This usually took 7 to 14 days to complete safely. As the equivalent of the Commissioner of DHSS in Alaska for all health matters, I was personally responsible for these actions until completed. Even with court involvement, State liability was potentially huge for any mishaps in patient care.
- The State has time to refine when and how a provision like this would be used. ASHNHA strongly recommends this provision not include nursing homes and hospitals until such time the Department can work with ASHNHA to further refine the idea. We are quite fortunate to have a very competent, thoughtful Commissioner at DHSS who could lead us through this process. Given the excellent track record of Alaska nursing homes and hospitals we do not see any risk in deferring action on this part of the legislation for hospitals and nursing homes.

**Position Paper on House Bill 193 Offered by Rod Betit, President ASHNHA**  
**Before House HESS Standing Committee**  
**March 15, 2005**

**SEC 47.32.170(a) Page 13, Lines 16-18:**

ASHNHA understands this provision's primary goal is to provide immunity to the Department and its employees for licensing actions taken. While it might be appropriate to provide immunity to employees and agents, ASHNHA does not agree that the State should be immune from compensating for economic consequences to a provider if a Departmental action was ultimately found to be excessive in the courts. Likewise, the State should not be immune from compensating for any harm suffered by a patient as a direct result of fallout from a license revocation action. This section should be amended to clearly state that.

With respect to protecting employees, the Commissioner or any DHSS employee can be sued in their personal capacity for any harm suffered to patients, loss of pay to employees, loss of revenue to contractors or vendors, economic impact on a provider, etc. This language may be of little help to shield these employees from those forms of personal liability even when their actions are sound. In these cases the employees might have to obtain private counsel at great expense just to prove the action they took was justified. To avoid this you may want to consider adding language that permits the State to pay for private legal counsel for the Commissioner and key employees if they are sued in their personal capacity. Generally, state employment rules do not provide this coverage leaving the employees to pay for their own legal counsel to defend themselves when a personal action is brought, and the AG is unsuccessful in redirecting it to their professional capacity. However this protection should stop short of covering any damages awarded by a court if the employee is found guilty of operating outside the scope of their professional authority and/or the scope of state law.

**SEC 47.32.900(2)(A) Page 15, Lines 25-03 on page 16:**

This section defines an "Assisted Living Home" but the definition is out of date and needs to be clarified. For example, under this definition it does not appear permissible to accept a resident that is incapable of managing their own medications or that requires any direct nursing care. The current definition speaks only to people who require assistance with "ADL's" which by definition does not include any direct medical care or medication management. Yet, assisted living homes throughout the country have increasingly taken this type of patient creating a liability for the State when harm occurs. Absent legislative guidelines, practice in this category of care can become a "slippery slope" where residents are not transferred to a higher level of care when appropriate.

Another common indicator of a person's ability to live independently in an assisted living home is their physical capacity to egress the building unassisted in the event of a fire. There is no mention of this standard in the definition so it is unclear whether the Legislature means to allow physically incapacitated persons to be in assisted living settings, and if so what additional requirements must be met. Many states have multiple levels of assisted living standards to address this with each level requiring higher staffing ratios with more specialized training. Even with these precautions these states require at some point that a resident be transferred to a nursing home when the needs become too great. This section needs to be updated to address these concerns.

**Position Paper on House Bill 193 Offered by Rod Betit, President ASHNHA  
Before House HESS Standing Committee  
March 15, 2005**

Again, ASHNHA believes that the changes embodied in HB 193 represent an important step in improving the licensing responsibilities of the Department and we generally support it; however, we believe the above concerns should be addressed before the bill leaves this Committee to make its intent clear to all concerned.

Mr. Chairman that concludes my comments. I would be happy to respond to questions.

Contact Info:

Rod Betit, President ASHNHA  
426 Main St, Juneau 586-3881



RECEIVED

OCT 25 2004

Division of Public Health

October 22, 2004

Don Brand  
Division of Public Health  
Dept of Health and Social Services  
PO Box 110610  
Juneau, AK 99811-0610

Dear Mr. Brand:

Job Ready, Inc. was begun in response to a need for employment services which were individualized to meet the needs of consumers. Job Ready began as a sole proprietorship then incorporated in 1996. Job Ready is a privately owned corporation. Job Ready, Inc. has provided community-based services in the Anchorage area since 1989. Initially, Job Ready provided employment services for individuals referred by the Division of Vocational Rehabilitation. In 1995, services were expanded to include individuals referred by Veteran's Affairs. In 1997, Job Ready, Inc. began providing personal care attendant services in Anchorage. In 1998, employment services were expanded to individuals who are welfare recipients. In addition, personal care attendant services were begun in Fairbanks in 1998. Job Ready, Inc. currently maintains offices in Anchorage, Wasilla, Fairbanks Delta Junction, Homer, Cordova, Soldotna and Seward. There are currently over 650 full and part time staff members making us the 30th largest private employer in the state of Alaska. In January, 2004 Job Ready, Inc. changed its name to READY CARE. The corporate name will continue to be Job Ready, Inc, doing business as: READY CARE. The name change reflects the broad spectrum of services we provide.

READY CARE has developed a reputation in the represented communities as an organization "who gets the job done." READY CARE works closely with the Division of Vocational Rehabilitation, Veterans Affairs, Division of Public Assistance, Division of Senior and Disability Services and local non-profits to provide a broad array of home and community-based services.

READY CARE'S mission is services are based on the values of Individualized Assistance, Honoring Personal Choice and Dealing with Issues with a Sense of Urgency.

READY CARE is aware of the Department's effort to obtain funding for a background check demonstration project.

There have been a number of situations where employees are employed by more than one agency and in those cases, multiple finger prints have

**Anchorage**  
600 Barrow St., Ste. 404  
Anchorage, AK 99501  
Ph: 907 258-3498  
Fax: 907 279-0171  
800 918-3045

**Mat-Su**  
165 E. Parks Highway, Ste. 104  
Wasilla, AK 99654  
Ph: 907 357-5627  
Fax: 907 357-5628

**Fairbanks**  
542 4th Avenue, Ste. 234  
Fairbanks, AK 99701  
Ph: 907 456-4524  
Fax: 907 456-5524

**Soldotna**  
44539 Sterling Hwy., Ste. 206  
Soldotna, AK 99669  
Ph: 907 262-9400  
Fax: 907 262-9422

**Seward**  
216 4th Avenue  
P.O. Box 88  
Seward, AK 99603  
Ph: 907 224-4424  
Fax: 907 224-4432

**Homer**  
332 E. Pioneer Avenue, Ste. 2  
Homer, AK 99603  
Ph: 907 235-7683  
Fax: 907 235-7684

**Cordova**  
PO Box 18  
Cordova, AK 99574  
Ph: 907 424-7935  
Fax: 907 424-7936

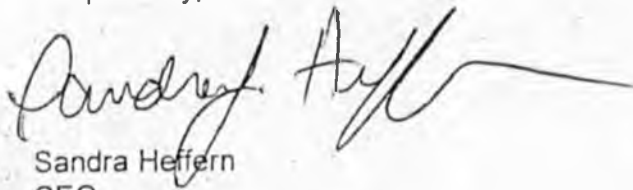
**Delta Junction**  
2955 Aican Highway  
Delta Junction, AK 99737  
Ph: 907 695 3289  
Fax: 907 695-3290

**Glennallen**  
Mile 111 Richardson Hwy  
Glennallen, AK 99588  
Ph: 907 822-4211  
Fax: 907 822-4131

been required by current state regulation. This has caused a burden in some cases for not only the employee but also the client. It also has an increased cost for the employee and the agency. The possibility of a protocol that would be enacted that would require just one set of finger prints rather than multiple sets would streamline the process, and ease the current burden placed upon the Department of Public Safety, the employee and employer(s), not to mention savings in costs and time and effort.

READY CARE is certainly open to working with the Department in developing, and hopefully, implementing a consolidated and streamlined criminal history investigation and fitness determination program.

Respectfully,

A handwritten signature in cursive script, appearing to read "Sandra Heffern", followed by a long horizontal flourish.

Sandra Heffern  
CEO

READY CARE, a Division of Job Ready, Inc.



U.S. Department of Justice

United States Attorney  
District of Alaska

RECEIVED

Department of Health

Federal Building & U.S. Courthouse  
222 West 7th Avenue, #9, Room 253  
Anchorage, Alaska 99513-7567

Commercial: (907) 271-5071  
Fax Number: (907) 271-3224

October 12, 2004

Elizabeth Vazquez  
Quality Assurance Coordinator  
State of Alaska  
Department of Health & Social Services  
Commissioner's Office  
Suite 902  
3601 C Street - Frontier Building  
Anchorage, Alaska 99503

Re: Pilot Program for Background Checks

Dear Ms. Vazquez:

I am aware of the effort by Alaska's Department of Health & Social Services to be selected for the national pilot program to improve background checks for the workforce that provides services and support to Alaska's elderly and disabled population. I fully support the Department's efforts in this regard, and believe that funding for this effort is essential to providing protection to Alaska's elderly and disabled population.

Because a large portion of the services provided to elderly and disabled Alaskans are provided through in-home care, and because Alaska has one of the fastest growing elderly populations in the country, I believe it is imperative that efforts be undertaken to ensure the safety of recipients. One of the most fundamental and effective ways this can be achieved is by performing background checks on potential care givers. In addition to providing assurance that those in need will be protected, I believe this program will help ensure that the large percentage of Medicaid funds allocated to Alaska will be properly spent.

We appreciate and strongly support the Department's effort to be selected for this program, and its efforts in ensuring that Alaskans receive the full value of Medicaid and Medicare funds spent in our state. We have enjoyed working with the Department in this effort, and look forward to a continued close working relationship in the future.

Very truly yours,

TIMOTHY M. BURGESS  
United States Attorney

# Sitka Tribe of Alaska

Tribal Government for Sitka, Alaska



RECEIVED BY O.C.S.  
10/11/04 11:44

October 11, 2004

To the Commissioner of Alaska Health and Social Services:

I am pleased to provide a letter of support for the proposed Federally Funded Criminal Background Check Pilot Project. As Sitka Tribe of Alaska provides an array of services to vulnerable persons, the use of criminal background checks is critical to assuring the safe and appropriate hire of employees in our community-based programs.

Successful funding of the project to consolidate and streamline the criminal investigation process is an important step in assuring quality services in Alaska's long-term care providers in Southeast Alaska and around the state. The project also involves standardizing criteria for identification and creating uniform procedures for information exchange, essential to assuring both timely and thorough information for providers.

An additional feature of the project involves standardized criteria for fitness to work in the field of long-term care. In addition to the criminal check, this additional evaluation will help assure that well-qualified staff is hired.

Given the nature of Alaska's transitory population and the fact that many long-term care employee applicants have been in the state only a short time, it is often difficult to obtain adequate reference information about a potential new hire. The proposed resource for criminal background checks and fitness evaluations will be extremely beneficial if not essential to abuse prevention. In addition, the project's proposal to provide a comprehensive abuse prevention training program that can be modified for Alaska's unique situation is commendable.

Over the years Sitka Tribe of Alaska has maintained a partnership with Office of Children's Services, and we have worked together in maintaining and improving standards, which promote quality services to our clients with a multitude of needs. I look forward to the implementation of the project, which should enhance our ability to recruit and hire the best employees to do the challenging work of long-term care.

Thank you for the opportunity to extend my wholehearted support for the Criminal Background Check Pilot Project.

Sincerely,

Louise Brady  
Sitka Tribe of Alaska  
Sitka, Alaska



# State of Alaska

Department of Public Safety  
Division of

## Statewide Services

Frank H. Murkowski, Governor  
William Tandeske, Commissioner

October 11, 2004

Richard Mandsager, Director  
Division of Public Health  
350 Main Street, Room 508  
Juneau, Alaska 99801

Dear Mr. Mandsager,

**Subject:**

This letter is being provided to express the support of the Department of Health and Social Services (DHSS), Division of Public Health's (DPH's) proposal to establish a single administrative unit to oversee all aspects of the background check program across divisional and office boundaries within the DHSS.

**Background:**

The DHSS has determined that standards used to determine suitability for employment within the many programs they are required to license and/or monitor are dissimilar or not based in statute or regulation. Implementation of the DHSS/DPH proposal will result in the consistent screening of applicants to positions of authority over dependent citizens, and will consolidate the screening into one centralized location to further facilitate the consistent implementation of hiring standards.

While this program will certainly have a far-reaching effect on DHSS divisions, DPS is involved only to the extent of facilitating the efficient processing of fingerprint-based state and national criminal history background checks. Currently, background check results are being returned to over 450 businesses and government entities for employment or licensing purposes. Rolled inked or live scan fingerprint impressions are obtained by numerous private entities, and are submitted to the employer or licensing agency for submission to the Central Repository of Criminal History Records (the Criminal Records & Identification Bureau) at the Department of Public Safety. Due to time delays in the processing of these fingerprints, many agencies require preliminary name-based criminal history background checks of Alaska criminal history records.

**Conclusion:**

The Department of Public Safety supports DHSS/DPH's proposal to implement and consolidate an effective and efficient fingerprint-based criminal history records investigation and fitness determination program, as well as a number of enhancements to the current licensing and monitoring process. The Department of Public Safety will offer support and advice to the Division of Public Health (DPH) on the development and implementation of a system to streamline the fingerprint collection and fitness determination processes on prospective employees of long-term care facilities and providers who have direct access to patients. Technical staff will also assist in assuring that any live scan and card scan equipment obtained for this purpose meets state and national standards and technical specifications. The Department of Public Safety currently has the technology available to notify a licensing agency of a licensee's criminal justice contact subsequent to a fingerprint based background check, and will extend this technology to the Division of Public Health in support of this

Director's Office

5700 East Tudor Road - Anchorage, AK 99507 - Voice (907) 269-0202 - Fax (907) 269-4543

program. Successful implementation of this program will ultimately improve the efficiency of both departments, and will improve the Department of Public Health's ability to make consistent, informed licensing decisions.

Sincerely,

A handwritten signature in cursive script, appearing to read "David L. Schade".

David L. Schade  
Director, Division of Statewide Services  
Alaska Department of Public Safety

Director's Office

5700 East Tudor Road - Anchorage, AK 99507 - Voice (907) 269-0202 - Fax (907) 269-4543

Oct-13-04 12:50

From

T-412 P.02/02 F-844

# Maniilaq Association

P.O. Box 256  
Kotzebue, Alaska 99752  
(907) 442-3311

October 11, 2004

To the Commissioner of Alaska Health and Social Services:

I am pleased to provide a letter of support for the proposed Federally Funded Criminal Background Check Pilot Project. As Maniilaq Association provides an array of services to vulnerable persons, the use of criminal background checks is critical to assuring the safe and appropriate hire of employees in our community-based programs.

Successful funding of the project to consolidate and streamline the criminal investigation process is an important step in assuring quality services in Alaska's long-term care providers in Kotzebue and around the state. The project also involves standardizing criteria for identification and creating uniform procedures for information exchange, essential to assuring both timely and thorough information for providers.

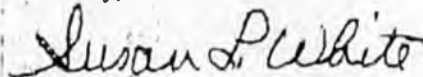
An additional feature of the project involves standardized criteria for fitness to work in the field of long-term care. In addition to the criminal check, this additional evaluation will help assure that well-qualified staff is hired.

Given the nature of Alaska's transitory population and the fact that many long-term care employee applicants have been in the state only a short time, it is often difficult to obtain adequate reference information about a potential new hire. In fact, there have been times that we have been unable to obtain background information in a timely manner which has compromised our ability to hire. The proposed resource for criminal background checks and fitness evaluations will be extremely beneficial if not essential to abuse prevention. In addition, the project's proposal to provide a comprehensive abuse prevention training program that can be modified for Alaska's unique situation is commendable.

Over the years, Maniilaq Association has maintained a partnership with Office of Children's Services, and we have worked together in maintaining and improving standards which promote quality services to our clients with a multitude of needs. I look forward to the implementation of the project which should enhance our ability to recruit and hire the best employees to do the challenging work of long-term care.

Thank you for the opportunity to extend my wholehearted support for the Criminal Background Check Pilot Project.

Sincerely,



Susan L. White, Director of Family Resources  
Maniilaq Association

## Member Villages

Ivishappaal, Nunatching, Ipiatclitaq, Katynak, Kivaliriniq, Luvgviik, Qikiqtograk, Nauruaq, Nuurosk, Akuligaq, Ishiruaq, Tudgaq  
Ambler, Buckland, Deering, Kiana, Kivalina, Kobuk, Kotzebue, Noatak, Noorvik, Selawik, Shungnak, Tr. Hope



2211 Arca Drive  
Anchorage, Alaska 99508

(907) 277-6677

Fax (907) 272-2161

TTY (907) 258-2232

Website: [www.arc-anchorage.org](http://www.arc-anchorage.org)

[info@arc-anchorage.org](mailto:info@arc-anchorage.org)

**Services**

Arctic Resource Center

CE/QL Program

Care Coordination

Community Living Services

Deaf and Hard of Hearing Center

Family Services

Interpreter Referral Line

Mental Health Services

Nursing Services

Short Term Assistance  
and Referral (STAR)

Student Living Center for the  
Deaf and Hard of Hearing

Substance Abuse Treatment

Supported Employment

Supported Parenti

**General**

Advocacy

Espresso Shop

Information and Referral

Public Education

Pick-Up Service and  
Donation Center

RECEIVED

OCT 11 2004

Division of Public Health

October 8, 2004

Don Brand  
Division of Public Health  
P.O. Box 110610  
Juneau, AK 99811-0601

Dear Mr. Brand:

On behalf of The Arc of Anchorage I would like to support the Department's effort to obtain funding for the background check demonstration project. An essential component to mitigate the risk of abuse and neglect of people receiving long term care services in Alaska is an efficient and easy method to access and obtain timely background checks of potential providers of services to individuals with disabilities that we serve. The improvements in the background checks process that will occur as a result of this project will work toward that goal.

The Arc of Anchorage is pleased to work with the Department to develop and implement a consolidated and streamlined criminal history investigation and fitness determination program. This will assist us to meet our commitment to providing quality services to the individuals we serve in our licensed homes and assist us in hiring only qualified providers.

I strongly support the pilot project and believe it will make it easier to recruit and hire safe and well qualified staff once the program has been created and implemented. The abuse prevention training component is another sorely needed and welcome addition that will improve certification and licensing functions of the Department.

Sincerely,

Gwendolyn Lee  
Executive Director



Alzheimer's  
Resource of Alaska

October 7, 2004

Anchorage &  
Statewide Services  
1750 Abbott Road  
Anchorage, AK 99507  
phone 907-561-3313  
fax 907-561-3315  
Toll-free in Alaska  
800-478-1080

Fairbanks Services  
Regency Court Mall  
P.O. Box 72791  
Fairbanks, AK 99707  
phone 907-452-2277  
fax 907-457-3376

Juneau Services  
3100 Channel Drive  
Suite 19  
Juneau, AK 99801  
phone 907-586-6044  
fax 907-586-6084

Mat-Su Valley Services  
Trinity Barn Plaza  
P.O. Box 4406  
Palmer, AK 99645  
phone 907-746-3413  
fax 907-746-3412

[www.alzaska.org](http://www.alzaska.org)

Dear grant review committee:

The Alzheimer's Disease Resource Agency of Alaska supports the effort of the Governor's Council on Disabilities and Special Education to obtain a grant for the background check pilot project.

Through our own experience with placing in-home respite workers for elderly clients, we are aware of the importance of doing everything possible to insure the safety of our elders. A thorough criminal background check of our employees is a vital component. This pilot program could help our state develop consistent practices in all agencies that provide care to vulnerable people. I hope that you will consider funding their grant proposal.

Sincerely,

A handwritten signature in cursive script that reads 'Melissa E. Mitchell'.

Melissa E. Mitchell  
In-Home Services Manager  
Alzheimer's Resource Agency of Alaska  
Ph: 907-561-3313

# FRA

FAIRBANKS RESOURCE AGENCY

805 Airport Road Fairbanks Alaska 99701

October 4, 2004

To Whom It May Concern:

I am pleased to provide a letter of support for the proposed Federally Funded Criminal Background Check Pilot Project. As Fairbanks Resource Agency provides an array of services to vulnerable persons, the use of criminal background checks is critical to assuring the safe and appropriate hire of employees in our community-based programs.

Successful funding of the project to consolidate and streamline the criminal investigation process is an important step in assuring quality services in Alaska's long-term care providers both in Fairbanks and around the state. The project also involves standardizing criteria for identification and creating uniform procedures for information exchange which are essential to assuring both timely and thorough information for providers.

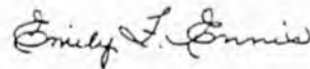
An additional feature of the project involves standardized criteria for fitness to work in the field of long-term care. In addition to the criminal check, this additional evaluation will help assure that well-qualified staff are hired.

Given the nature of Alaska's transitory population and the fact that many long-term care employee applicants have been in the state only a short time, it is often difficult to obtain adequate reference information about a potential new hire. The proposed resource for criminal background checks and fitness evaluations will be extremely beneficial if not essential to abuse prevention. In addition, the project's proposal to provide a comprehensive abuse prevention training program that can be modified for Alaska's unique situation is commendable.

Over the years, FRA has maintained a positive working relationship with the Community Care Licensing office, and we have appreciated your help in maintaining and improving standards which promote quality services to our clients with developmental disabilities. I look forward to the implementation of the project which should enhance our ability to recruit and hire the best employees to do the challenging work of long-term care.

Thank you for the opportunity to extend my wholehearted support for the Criminal Background Check Pilot Project.

Sincerely,



Emily F. Ennis  
Executive Director

EFE/njm



Assets, Inc.

RECEIVED

Division of Public Health

*Matthew J. Jones M.A., Executive Director*

October 1, 2004

To whom it may Concern,

Our company, Assets Inc. is completely committed to providing safe and quality services to those individuals we support so I am extremely pleased that the Department of Health and Social Services is seeking to obtain funding for a background check demonstration project. We have worked closely and cooperatively with the department to ensure only qualified and appropriate individuals work with our vulnerable clientele. We would welcome the opportunity to continue this ongoing relationship by providing whatever assistance or collaboration is needed.

Recruiting and hiring only appropriate supports is an area we cannot afford even a single failure of the system. The department's efforts will increase the timeliness and effectiveness of this intensive effort. We strongly support the department's efforts in this project.

Sincerely,

A handwritten signature in dark ink, appearing to read "Matthew J. Jones", is written over a horizontal line.

Matthew J. Jones-M.A.  
Assets Inc. Executive Director





Community Resources Inc

September 30, 2004  
Anchorage, Alaska

Regional Centers

**South Central Region**  
540 W. International Airport Rd.  
Anchorage, AK 99518-1110  
(907) 561-5335  
1-800-478-0078  
Fax: (907) 561-7429

**Mat-Su Valley Region**  
851 E. Westpoint Drive, Suite 306  
Wasilla, AK 99654  
(907) 357-3750  
Fax: (907) 357-3751

**Dillingham/Bristol Bay Region**  
P.O. Box 715  
Dillingham, AK 99576-0715  
1-800-478-2117  
Fax: (907) 842-5007

**Kodiak/Aleutian Region**  
1623 Mill Bay Road  
Kodiak, AK 99615-6235  
(907) 486-5011  
Fax: (907) 486-5019

**Seward/Resurrection Bay Region**  
P.O. Box 1933  
Seward, AK 99664  
(907) 224-2063  
Fax: (907) 224-2063

**Juneau/Southeast Region**  
9109 Mendenhall Mill Rd., Ste 5D  
Juneau, AK 99801  
(907) 463-3602  
Fax: (907) 463-3605

**Barrow/North Slope Region**  
P.O. Box 2123  
Barrow, AK 99723  
(907) 852-3151  
Fax: (907) 852-2855

[www.hopealaska.org](http://www.hopealaska.org)

Stephen P Lesko  
Executive Director

Roy T Scheller  
Deputy Executive Director

To Whom It May Concern:

Hope Community Resources, Inc. is the largest provider of community supports for individuals and families who experience disabilities, in the State of Alaska. With a main office in Anchorage, there are an additional seven regional offices located in Kodiak, Seward, Kenai/Soldotna, Barrow, Dillingham, Juneau, and the Mat-Su Valley. Hope supports over 750 people throughout these regions with a multiplicity of individualized, family driven, wrap-around supports.

It has come to my attention that the Department is seeking funding to obtain resources in order to establish a background check demonstration project coordinated with abuse prevention training. Hope Community Resources fully endorses this application and supports the Departments efforts to do so without qualification.

In order to establish a program of true quality, life safety and health concerns are the building blocks of all quality assurance. This starts with the hiring of excellent, qualified staff and involves criminal background histories, fingerprints and a series of reference checks. The restructure and standardization of our current system, as conceived by the Department, along with proposed strategies and abuse prevention training, would give our community programs a more comprehensive and expeditious approach in the hiring process.

Hope is, and has always been, totally committed to the provision of quality community services which includes highly qualified and fit staff. This project will serve to strengthen that commitment to our families.

Hope has always enjoyed an excellent, cooperative relationship with the Department in the interests of those we mutually support. We would be eager to continue this relationship with the Criminal Background Check Pilot Program, as proposed. I commit my time and that of my staff to this project in any way that we can assist in making it a reality. I personally applaud the Department for their initiative in pursuit of this highly coordinated, comprehensive system that will benefit all of our community programs.

I cannot adequately stress the importance of this proposal and its positive impact and quantifiable ramifications on our community programs. I believe, after a review of the project, that Hope will be able to better assure our

families and individuals who choose our supports that all of our staff are not only extremely qualified to do the job, but are also "safe hires." The relative newness of our Alaskan system, in comparison to those of the Lower 48, our geographical isolation, time differences and other key factors make the retrieval of standardized information cumbersome at best, and time consuming.

I would urge you to fully fund this project as a critical component in the delivery of our community programs in respect to the vital components of health and life safety for all those who trust us in the provision of supports.

If I can answer any questions or be of further service, please do not hesitate to contact me at your convenience. I look forward to working with the Department in the implementation of this proposal as a true benefit to all of our community programs across rural and urban Alaska.

Sincerely,

A handwritten signature in cursive script, appearing to read "Stephen P. Lesko".

Stephen P. Lesko  
Executive Director  
Hope Community Resources, Inc.

# STATE OF ALASKA

## DEPARTMENT OF HEALTH AND SOCIAL SERVICES

*DIVISION OF SENIOR AND DISABILITIES SERVICES  
OFFICE OF THE DIRECTOR*

*FRANK H. MURKOWSKI  
GOVERNOR*

*3601 C Street, Suite 310*

*ANCHORAGE, AK 99503*

*PHONE: (907) 269-3666*

*FAX: (907) 269-3690*

September 29, 2004

Department of Health and Human Services  
Centers for Medicare and Medicaid Services  
7500 Security Boulevard, Mail Stop S2-12-25  
Baltimore, MD 21244-1850

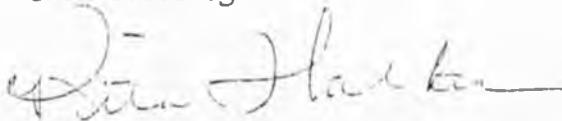
As Project Coordinator for the Nursing Facilities Transition Project, through a grant from the Center for Medicare and Medicaid Services, it is my pleasure to enthusiastically endorse and support the grant proposal for a background check demonstration project. I look forward to working with the Department in their effort to improve background checks and believe that these efforts will effectuate a dramatic change in the care of elders and those with disabilities.

This demonstration project will help meet the need for critical protection of vulnerable populations who receive care from individuals in long-term care facilities or in the community. I believe that recruitment and retention of qualified candidates will improve care of these individuals and contribute greatly to quality of life.

We have worked diligently to provide quality services to individuals through the transitions project, and would be encouraged to know that the individuals whom we are transitioning into the community will have safe, high quality care. I believe that this program will provide the mechanisms to recruit and hire safe and well-qualified staff. This could be a giant step in improving how the public perceives those who care for our most frail vulnerable individuals.

It has been my pleasure to work closely with the Division of Senior and Disabilities Services for waiver approvals and the quality assurance section to ensure that individuals are receiving the care they deserve.

I wholeheartedly and enthusiastically endorse the Department's application for the Background Check Pilot Program.



Rita Walker, Project Coordinator  
Nursing Facility Transitions Project



FRANK H. MURKOWSKI, GOVERNOR  
State of Alaska

**GOVERNOR'S COUNCIL ON DISABILITIES AND SPECIAL EDUCATION**

P.O. Box 240249 • Anchorage, Alaska 99524-0249 • Phone: 907-269-8990 • Fax: 907-269-8995 • Toll Free 888-269-8990

September 27, 2004

Elizabeth Vazquez  
Alaska Department of Health and Social Services  
3601 C Street, Ste 902  
Anchorage, Alaska 99524

Dear Ms. Vazquez,

On behalf of the Governor's Council on Disabilities and Special Education, I would like to express the Council's support for the Alaska Department of Health and Social Services' application for the *Program for Background Checks for Employees with Direct Access to Individuals Who Require Long Term Care* grant funds.

As you know, one of the overarching concerns for all individuals who require direct care is the need for safe, quality care. Among direct care providers in Alaska, the ability to offer quality services and to expand the capacity of those services to meet the growing needs of Alaska is dramatically constrained by the availability of qualified direct service staff. We believe implementing a system to ease the process of conducting background checks would be beneficial to both the individual receiving care and the provider agencies.

Currently, the Council has already partnered with several state agencies, the University of Alaska, and provider organizations to address the overall shortage of direct care providers in Alaska through the development and sustained support of the Alaska Alliance for Direct Service Careers. The Alliance is currently developing ways to expand the pool of direct service workers by increasing access to information about direct care professions through outreach and marketing efforts.

The Council fully supports this proposal and is willing to participate on a team to ensure the hiring of fully qualified individuals as direct care providers.

Sincerely,

A handwritten signature in cursive script that reads "Millie Ryan".

Millie Ryan  
Executive Director

Alaska Alliance For Direct Service Careers  
PO Box 240249  
3601 C Street, Ste 740  
Anchorage, Alaska 99524-0249

September 27, 2004

Judith Norris  
US Department of Health and Human Services  
Centers for Medicare and Medicaid Services  
OOM/Acquisitions and Grants Group  
7500 Security Boulevard  
Baltimore, MD 21244

Dear Ms. Norris,

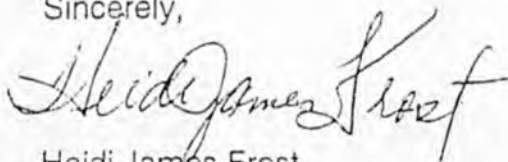
The Alaska Alliance for Direct Service Careers is pleased to offer its support of the *Program for Background Checks for Employees with Direct Access to Individuals Who Require Long Term Care* grant application by Alaska Department of Health and Social Services.

The shortage of direct service staff in the developmental disability, mental health, substance abuse, and aging fields is at crisis level in Alaska. The need to do more with less, changes in employee expectations, a tight job market and the aging of the American workforce are all contributing factors to this problem. The Alaska Alliance for Direct Service Careers (AADSC) is working with consumers, advocates, service providers and other state department staff to identify ways to improve the recruitment and retention of direct care providers.

Our efforts includes working with the American Network for Community Options and Resources (ANCOR) to develop a multi-media campaign to encourage both traditional and non-traditional labor pools to enter direct care work. AADSC has also developed both retention and recruitment tool kits for service providers and, with the Alaska Job Center Network and the Alaska State Hospital and Nursing Home Association, has sponsored the annual career fair for direct service work. Augmenting these services with a program to provide background checks would be valuable.

The Alaska Alliance for Direct Service Careers looks forward partnering with the Alaska Department of Health and Social Services to offer yet another valuable tool in the recruitment and retention of direct care providers.

Sincerely,



Heidi James Frost  
Recruitment Chair

Levi Rolland 465-2267  
3 pgs  
11/16/15

## Proposal to Implement Proposed 300%'er Change

OFFERED IN THE HOUSE

BY REPRESENTATIVE WILSON

TO: ~~CSHB 114 (STA)~~

Page 1, line 1 thru 8:

Delete all material in the Title and Insert **"An Act relating to Medicaid personal needs allowance for assisted living home residents."**

Page 1, line 10 thru page 12, line 15:

Delete all material and Insert new bill sections to read:

\* Sec. 1. It is the Intent of the Legislature that the Department of Health and Social Services Repeal 7 AAC 43.1058(k)(1)(B) effective July 1, 2005.

\* Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to read:

The Department of Health and Social Service shall adopt new emergency regulations establishing a personal needs allowance for recipients residing in an assisted living facility equal to the monthly income limit set in AS 47.07.020(b)(6) minus \$260. Until such time as the department can adopt these regulations at 7 AAC 43.1058(k)(1)(B), the department shall apply personal needs allowance for recipients residing in an assisted living facility equal to the monthly income limit set in AS 47.07.020(b)(6) minus \$260.

\* Sec. 3. Section 1 of this Act takes effect July 1, 2005.

\* Sec. 4. Section 2 of this Act takes effect July 2, 2005.

## **Proposal to Allow Higher Room and Board Charges to 300%'ers**

### Prior to 6/28/04 Regulation Change:

- Medicaid waiver recipients under the 300% of SSI eligibility category were allowed to keep \$1,656 as a personal needs allowance, which includes room and board.
- Assisted living homes charged these residents up to \$1,556 for room and board.
- Assisted living homes let residents retain at least \$100/month for other personal expenses.

### After Regulation Change:

- Medicaid waiver recipients under the 300% category are allowed to keep \$679/month ( $\$100 + \text{SSI payment standard, currently } \$579$ ) as a personal needs allowance, which includes room and board.
- Assisted living homes charge individuals \$579 for room and board.
- Assisted living homes let residents retain \$100 for other personal expenses.
- Assisted living homes received an additional \$8.65/day, about \$260/month, in Medicaid payment for each resident.
- Resident income in excess of personal needs allowance is used to offset Medicaid charges.

### Reversing the Impact of the Regulation Change:

- Medicaid waiver recipients under the 300% category are allowed to keep \$1,396/month as a personal needs allowance, which includes room and board ( $\$1,656 - \$260 = \$1,396$ ).
- Assisted living homes can charge individuals up to \$1,296/month for room and board.
- Assisted living homes let residents retain at least \$100/month for other personal expenses.
- Assisted living homes continue to receive an additional \$8.65/day, about \$260/month, in Medicaid payment for each resident.
- Assisted living homes can collect up to \$1,556/month in room and board and Medicaid rate increase ( $\$1,296 + 260 = \$1,556$ ).
- Resident income in excess of personal needs allowance is used to offset Medicaid charges.

Cost impact of the Reversing Change to 300%'ers:

577 adults in assisted living homes on Medicaid waivers

30 percent are 300%'ers

50 percent of 300%'ers live in homes that have higher room and board charges for 300%'ers than for APA recipients.

On average, Medicaid offset is reduced by \$350/month, or \$4,200/year, per resident.

Total Cost =  $577 \times 30\% \times 50\% \times \$4,200 = \$363.5$  total funds

GF Cost = \$181.8

**HB**

**214**



# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB214CS(HES)-DHSS-DPH-04-06-05  
 ( ) Publish Date: \_\_\_\_\_  
 Dept. Affected: Health & Social Services  
 RDU: Public Health  
 Component: Community Health/EMS Services

Revision Date/Time (Note if correction): \_\_\_\_\_  
 Title: ANATOMICAL GIFTS

Sponsor: MCGUIRE  
 Requester: HOUSE (HES)

Component No. 2078

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES (0)</b>						

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: \_\_\_\_\_  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill would add a requirement for EMS responders to notify an organ procurement agency for deaths which occur outside of a hospital, and of the victim's intent to donate - or not donate - organs.

The state will notify EMS providers, instructors, first responders, and ground and air medical services of the new reporting requirement. The cost of preparing and mailing these notifications was initially identified as \$6.5, but it has been determined these costs can be avoided by coordinating notification of this new requirement with other EMS provider communication efforts.

Thus, the fiscal impact is zero.

Prepared by: Richard Mandsager, M.D.  
 Division: Public Health  
 Approved by: Joel S. Gilbertson, Commissioner  
 Agency: Department of Health and Social Services

Phone 465-3090  
 Date/Time 04/05/2005  
 Date 04/06/2005

# ALASKA STATE LEGISLATURE

Session  
State Capitol Building, Room 118  
Juneau, Alaska 99801-1182  
Phone (907) 465-2995  
Fax (907) 465-6592

Interim  
716 West Fourth Avenue, Suite 430  
Anchorage, Alaska 99501  
Phone (907) 269-0250  
Fax (907) 269-0249

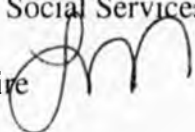
**REPRESENTATIVE LESIL MCGUIRE**  
**HOUSE DISTRICT 28**

Chair  
Judiciary Committee

Member  
House Leadership  
Rules Committee  
Health, Education  
& Social Services  
Committee  
Oil & Gas Committee  
Military & Veterans'  
Affairs Committee

## MEMORANDUM

To: Representative Peggy Wilson, Chair  
House Health, Education & Social Services Committee

From: Representative Lesil McGuire 

Date: March 30, 2005

Re: Request for Hearing, HB 214: Anatomical Gifts

---

I respectfully request that HB 214: Anatomical Gifts, be scheduled for a hearing at your earliest convenience. I have attached the following for your information:

1. Sponsor Statement
2. Sectional Analysis
3. HB 214
4. Fiscal Notes
5. Applicable Statutes and Federal Regulations
6. Relevant Articles

If you have any questions please feel free to contact me personally, or my staff, Vanessa Tondini, at 4990. Thank you very much.

# ALASKA STATE LEGISLATURE

Session  
State Capitol Building, Room 118  
Juneau, Alaska 99801-1182  
Phone (907) 465-2995  
Fax (907) 465-6592

Interim  
716 West Fourth Avenue, Suite 430  
Anchorage, Alaska 99501  
Phone (907) 269-0250  
Fax (907) 269-0249

**REPRESENTATIVE LESLIE MCGUIRE**  
**HOUSE DISTRICT 28**

Chair  
Judiciary Committee

Member  
House Leadership  
Rules Committee  
Health, Education  
& Social Services  
Committee  
Oil & Gas Committee  
Military & Veterans'  
Affairs Committee

## **Sponsor Statement** **HB 214**

### **"An Act relating to anatomical gifts and the anatomical gift donor registry program."**

Last year the Alaska Legislature passed the Anatomical Gifts Registry Bill, which created an official organ donor registry program at the Department of Motor Vehicles. Through this program an organ donor's wishes are kept on record in a central database and are transferred to Life Alaska Donor Services, the state's organ & tissue donor program. This information allows Life Alaska to quickly match the donor's gift to a potential recipient, saving time and lives.

HB 214 makes several simple but important changes to existing law to further the intent of the original enabling legislation and to continue to move the donor registry forward in the State of Alaska. This bill works to make the Alaska Donor Registry program inclusive rather than exclusive, offers expanded definitions that act to clarify the agencies that are responsible for donation within the state as well as for the people who are trained to do the actual recovery procedures, allows increased notification for greater donation potential, and clears up inconsistencies between federal rulings and state laws.

When the Anatomical Gifts Registry Bill was submitted for consideration and subsequently passed into law in the 2004 legislative session, it was done so with the clear intent that the donor registry be operated from within the State of Alaska and not controlled by an out-of-state agency. However, as the law now reads, an out-of-state organ procurement organization has sole control of the registry, excluding the in-state procurement organization. HB 214 would change AS 13.50 to be inclusive rather than exclusive allowing access to both in-state and out-of-state procurement organizations. The current definition of "procurement organization" within AS 13.50.190 and the definition of "organ procurement organization" within AS 13.52.390 are defined as the "organization designated by the United States Department of Health and Human Services..." This definition is restricted to the regional organ procurement organization only. While it is important to have the regional organ procurement organization represented in the state, it is equally important that the in-state procurement organization not be excluded from donation and donation decisions that benefit all Alaskans. HB 214 will change the definitions within both sections to be more inclusive of all procurement organizations and allow them to function equally for the good of donation throughout Alaska.

Also, the current definition of "technician" within AS 13.52.390 is too restrictive and not in line with the laws of any other state. Recognized technicians throughout the state who recover tissues have never been licensed or certified by the State Medical Board. In fact, the State Medical Board does not have a process to license or certify technicians to procure tissues. The FDA, which regulates the tissue procurement agencies, defines a technician under 21 CFR 1271.170 for recovery personnel only by "requir[ing] establishments to employ sufficient personnel with the necessary education, experience, and training to ensure competent performance of their assigned functions." HB 214 will change the definition of technician to more closely reflect the good tissue practices set out by the federal government.

In addition, AS 13.52.200(e) currently only addresses notification to the hospital. HB 214 would expand notification by allowing for law enforcement officers, fire fighters, paramedics, or other emergency rescuer personnel to contact a procurement organization directly. This would allow timely notification on non-hospital deaths to increase the potential of donation within the state.

Finally, there are two paragraphs within AS 13.52 that will be repealed in HB 214; the first being AS 13.52.200(b). This is in direct contradiction to 42 CFR 482.45, which requires the hospital to notify a procurement organization that will determine suitability of donation on *all* deaths or *imminent* deaths. The second is AS 13.52.200(c). This is burdensome to the hospital and is duplicating efforts that are already being done.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101


State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

March 24, 2005

**SUBJECT:** Sectional Summary of HB 214 relating to anatomical gifts and the anatomical gift donor registry program  
(Work Order No. 24-LS0410\F)

**TO:** Representative Lesil McGuire  
Attn: Vanessa

**FROM:**  Theresa Bannister  
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

**Section 1.** Defines "procurement organization" for the donor registry program.

**Section 2.** Adds definitions of "donor," "gift," and "part" for the donor registry program.

**Section 3.** Deletes a reference to AS 13.52.200 to reflect the repeal of AS 13.52.200(c) by sec. 11 of the bill.

**Section 4.** Makes conforming amendments to reflect the change in terminology to "procurement organization."

**Section 5.** Makes conforming amendments to reflect the change in terminology to "procurement organization."

**Section 6.** If an individual or body is taken to a hospital, and if a document of gift or evidence of refusal to make a gift is located under AS 13.52.200(d)(1), this subsection requires the hospital and a procurement organization to be notified of the contents of the document of gift or the evidence of refusal. If the individual or body is not taken to a hospital, requires certain persons (those identified in AS 13.52.200(d)(1)) to notify a procurement organization and send the document or evidence to the procurement organization.

**Section 7.** Makes a conforming amendment to reflect the change in terminology to "procurement organization."

Representative Lesil McGuire  
March 24, 2005  
Page 2

**Section 8.** Makes a conforming change to reflect the repeal of AS 13.52.200(b) and (c) by sec. 11 of the bill.

**Section 9.** Defines "procurement organization" for AS 13.52.200.

**Section 10.** Amends the definition of "technician" for AS 13.52 to mean an individual who has the education, training, and experience necessary to competently remove or process a part.

**Section 11.** Repeals a provision stating that a hospital administrator (or a designee) is not required to contact an organ procurement organization if an anatomical gift is not suitable for donation. Repeals a provision requiring that an entry be made in a patient's record relating to the discussion by a representative of an organ procurement organization with the family, agent, or surrogate of the patient. Repeals the definition of "organ procurement organization."

If I may be of further assistance, please advise.

TLB:med  
05-211.mcd

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB214 DHSS-DPH-03-30-05  
 ( ) Publish Date: \_\_\_\_\_  
 Dept. Affected: Health & Social Services  
 RDU Public Health  
 Component Community Health/EMS Services

Revision Date/Time (Note if correction): \_\_\_\_\_  
 Title ANATOMICAL GIFTS

Sponsor MCGUIRE

Requester \_\_\_\_\_

Component No. 2078

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	2.7					
Travel						
Contractual						
Supplies	3.8					
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>6.5</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES (0)</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	6.5					
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
<b>TOTAL</b>	<b>6.5</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: \_\_\_\_\_  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill would add a requirement for EMS responders to notify an organ procurement agency and transmit organ donation documentation for deaths which occur outside of a hospital. The fiscal note addresses the cost to the state of mailing out notice of the reporting requirement to EMS providers, instructors, First Responder services, and Ground and Air Medical Services, but does not reflect the cost to the services, many of whom are operating under severe fiscal constraints, including rural EMS services.

Staff time: Preparation of training materials & 3 mailings to EMS providers, instructors & services: \$2.7.

Supplies: Supplies & postage for 3 mailings: \$3.8.

Prepared by: Richard Mandsager, MD  
 Division: Public Health  
 Approved by: Joel S. Gilbertson, Commissioner  
 Agency: Department of Health and Social Services

Phone 465-3090  
 Date/Time 03/30/2005  
 Date 03/30/2005

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 214  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction):  
 Title Anatomical Gifts

Dept. Affected: Commerce  
 RDU Occupational Licensing (117)  
 Component Occupational Licensing

Sponsor McGuire, Kerttula, Gruenberg  
 Requester State Affairs

Component No. 2360

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1156 - Receipt Supported Services						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: 00  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

HB 214 amends AS 13.50 relating to anatomical gifts and the gift donor registry program. New funds are not required to implement the provisions of this bill.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144  
 Division: Occupational Licensing Date/Time 3/29/05 6:31 PM  
 Approved by: Edgar Blatchford, Commissioner Date 3/29/2005  
 Agency: Commerce, Community, and Economic Development

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB214-DPS-ASTD-3-30-05  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Public Safety  
 Title "An Act relating to anatomical gifts and the anatomical RDU Alaska State Troopers  
gift donor registry program." Component AST Detachments  
 Sponsor Representative McGuire  
 Requester House State Affairs Component No. 2325

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill impacts the Department of Public Safety by amending AS 13.52.200. The amendment requires law enforcement officers dealing with a body or individual from a death or impending death that is taken to a hospital, to additionally notify a procurement organization with documentation of an anatomical gift (organ donation) or evidence of refusal to make a gift. Also, if the individual or body is not taken to a hospital, law enforcement officers shall now notify a procurement organization and send the document or other evidence to the procurement organization.

Passage of this bill will have no fiscal impact on the Department of Public Safety.

Prepared by: Lieutenant Todd Sharp Phone 907-465-3223  
 Division: Alaska State Troopers Date/Time 3/30/05 4:35 PM  
 Approved by: Commissioner William Tandeske Date 3/30/2005  
 Agency: Department of Public Safety

## Sec. 13.50.190. Definitions.

In AS 13.50.100 - 13.50.190,

(1) "department" means the Department of Administration;

(2) "donation" means a monetary donation made under AS 13.50.150;

(3) "fund" means the anatomical gift awareness fund established under AS 13.50.160;

(4) "motor vehicle or identification document" means

(A) a motor vehicle registration, a driver's license, or an instruction permit, or a renewal of the registration, license, or permit; or

(B) an identification card issued under AS 18.65.310;

(5) "procurement organization" means an organization that has been designated by the United States Department of Health and Human Services to coordinate activities for the procurement of body parts for any portion of this state;

(6) "reasonable costs" includes the cost of

(A) computer programming and installing software and software upgrades;

(B) employee training that is specific to a registry or the donation program established under AS 13.50.150;

(C) producing literature that is specific to a registry or the donation program established under AS 13.50.150; and

(D) making hardware upgrades or handling other issues for a registry or the donation program established under AS 13.50.150;

(7) "registry" means a donor registry established under AS 13.50.110;

(8) "registry information" means information obtained under AS 13.50.100;

(9) "state" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

Sec. 13.52.200. Routine inquiry and required request; search and notification.

(a) If, at or near the time of death of a patient, there is no medical record that the patient has made or refused to make an anatomical gift, the hospital administrator or a designee of the hospital shall contact an organ procurement organization so that the organ procurement organization may discuss the potential to make a gift with the family, agent, or surrogate of the patient. The organ procurement organization shall discuss the potential gift with reasonable discretion and sensitivity to the circumstances of the family.

(b) Notwithstanding (a) of this section, a hospital administrator or other designee of the hospital is not required to contact an organ procurement organization if the gift is not suitable, based on accepted medical standards, for a purpose specified in AS 13.52.210.

(c) An entry shall be made in the medical record of the patient, stating the name and affiliation of the individual from the organ procurement organization who discusses the potential gift with the family, agent, or surrogate under (a) of this section, and the relationship to the patient of the family member, agent, or surrogate with whom the potential gift was discussed.

(d) The following persons shall make a reasonable search for a document of gift or other information identifying the bearer as a donor or as an individual who has refused to make an anatomical gift:

(1) a law enforcement officer, fire fighter, paramedic, or other emergency rescuer finding an individual who the searcher believes is dead or near death; and

(2) a hospital or an organ procurement organization, upon the admission of an individual at or near the time of death, if there is not immediately available any other source of that information.

(e) If a document of gift or evidence of refusal to make an anatomical gift is located by the search required by (d)(1) of this section, and the individual or body to whom it relates is taken to a hospital, the hospital must be notified of the contents, and the document or other evidence must be sent to the hospital.

(f) If, at or near the time of death of a patient, a hospital knows that an anatomical gift has been made under AS 13.52.170 or 13.52.180(a), or that a patient or an individual identified as in transit to the hospital is a donor, the hospital shall notify an organ procurement organization. The hospital shall cooperate in the implementation of the anatomical gift or release and removal of a part.

(g) Notwithstanding AS 13.52.090, a person who fails to discharge the duties imposed by this section is not subject to criminal or civil liability but is subject to appropriate administrative sanctions.

(h) The commissioner of health and social services shall adopt regulations to implement (a) - (c) of this section.

## Sec. 13.52.390. Definitions.

In this chapter, unless the context otherwise requires,

- (1) "advance health care directive" means an individual instruction or a durable power of attorney for health care;
- (2) "agent" means an individual designated in a durable power of attorney for health care to make a health care decision for the individual granting the power;
- (3) "anatomical gift" means an individual instruction that makes a donation of all or a part of an individual's body to take effect upon or after death;
- (4) "artificial nutrition and hydration" means medically appropriate nutrition and hydration delivered
  - (A) through an intravenous needle placed directly in a vein; or
  - (B) by a tube that is inserted into a functioning gastrointestinal tract;
- (5) "available" means, when referring to a person, that the
  - (A) person's existence is known;
  - (B) person can be contacted;
  - (C) person does not lack capacity;
  - (D) person does not refuse to accept the position; and
  - (E) person is willing to make a health care decision;
- (6) "best interest" means that the benefits to the individual resulting from a treatment outweigh the burdens to the individual resulting from that treatment after assessing
  - (A) the effect of the treatment on the physical, emotional, and cognitive functions of the patient;
  - (B) the degree of physical pain or discomfort caused to the individual by the treatment or the withholding or withdrawal of the treatment;
  - (C) the degree to which the individual's medical condition, the treatment, or the withholding or withdrawal of treatment results in a severe and continuing impairment;
  - (D) the effect of the treatment on the life expectancy of the patient;
  - (E) the prognosis of the patient for recovery, with and without the treatment;
  - (F) the risks, side effects, and benefits of the treatment or the withholding of treatment; and

(G) the religious beliefs and basic values of the individual receiving treatment, to the extent that these may assist the decision-maker to determine benefits and burdens;

(7) "capacity," except in (9) of this section, means an individual's ability to receive and evaluate information effectively or communicate decisions to the extent necessary to make mental health treatment decisions;

(8) "cardiopulmonary resuscitation" means an attempt to restore spontaneous circulation;

(9) "competent" means that an individual has the capacity

(A) to assimilate relevant facts and to appreciate and understand the individual's situation with regard to those facts; and

(B) to participate in treatment decisions by means of a rational thought process;

(10) "decedent" means a deceased individual or infant, but does not include a dead or stillborn fetus;

(11) "department" means the Department of Health and Social Services;

(12) "document of gift" means a card, a statement attached to or imprinted on a driver's license, a will, an advance health care directive under AS 13.52.300, or another writing used to make an anatomical gift;

(13) "donor" means an individual who makes an anatomical gift;

(14) "do not resuscitate identification" means an identification card, form, necklace, or bracelet that carries the standardized design or symbol developed by the department under AS 13.52.065 to signify, when carried or worn, that the carrier or wearer is an individual for whom a physician has issued a do not resuscitate order;

(15) "do not resuscitate order" means a directive from a licensed physician that emergency cardiopulmonary resuscitation should not be administered to a qualified patient;

(16) "durable power of attorney for health care" means a power of attorney that remains in effect when the principal lacks capacity; in this paragraph, "power of attorney" means the designation of an agent to make health care decisions for the individual granting the power;

(17) "generally accepted health care standards" includes the protocol for do not resuscitate orders that is adopted under AS 13.52.065 ;

(18) "guardian" means a judicially appointed person having authority to make a health care decision for an individual;

(19) "health care" means any care, treatment, service, or procedure to maintain, diagnose, or otherwise affect an individual's physical or mental condition;

(20) "health care decision" means a decision made by an individual or the individual's agent, guardian, or surrogate regarding the individual's health care, including

(A) selection and discharge of health care providers and institutions;

(B) approval or disapproval of proposed diagnostic tests, surgical procedures, and programs of medication;

(C) direction to provide, withhold, or withdraw artificial nutrition and hydration if providing, withholding, or withdrawing artificial nutrition, artificial hydration, or artificial nutrition and hydration is in accord with generally accepted health care standards applicable to health care providers or institutions;

(D) the administration or withdrawal of psychotropic medications, the use of electroconvulsive treatment, and the admission to a mental health facility; and

(E) making an anatomical gift at death;

(21) "health care facility" means a nursing home, a rehabilitation center, a long-term care facility, and any other health care institution that administers health care and that provides overnight stays in the ordinary course of the facility's business;

(22) "health care institution" means an institution, facility, or agency licensed, certified, or otherwise authorized or permitted by law to provide health care in the ordinary course of business;

(23) "health care provider" means an individual licensed, certified, or otherwise authorized or permitted by law to provide health care in the ordinary course of business or practice of a profession;

(24) "hospital" means a facility

(A) licensed, accredited, or approved as a hospital under the laws of this state; or

(B) operated as a hospital by the United States government, this state, or a subdivision of this state;

(25) "individual instruction" means an individual's direction concerning a health care decision for the individual;

(26) "life-sustaining procedures" means any medical treatment, procedure, or intervention that, in the judgment of the primary physician, when applied to a patient with a qualifying condition, would not be effective to remove the qualifying condition, would serve only to prolong the dying process, or, when administered to a patient with a condition of permanent unconsciousness, may keep the patient alive but is not expected to restore consciousness; in this paragraph, "medical treatment, procedure, or intervention" includes assisted ventilation, renal dialysis, surgical procedures, blood transfusions, and the administration of drugs, including antibiotics, or artificial nutrition and hydration;

(27) "mental health facility" has the meaning given to "designated treatment facility" in AS 47.30.915 ;

(28) "mental health treatment" means electroconvulsive treatment, treatment with psychotropic medication, or admission to and retention in a health care institution for mental health treatment;

(29) "organ procurement organization" means an organization that has been designated by the United States Department of Health and Human Services to coordinate activities for the procurement of

body parts for any portion of this state;

(30) "part" means an organ, tissue, an eye, a bone, an artery, blood, fluid, or another portion of a human body, except fetal tissue;

(31) "permanent unconsciousness" means a condition

(A) that, to a high degree of medical certainty, will last permanently without improvement;

(B) in which, to a high degree of medical certainty, thought, sensation, purposeful action, social interaction, and awareness of self and the environment are absent; and

(C) for which, to a high degree of medical certainty, initiating or continuing life-sustaining procedures, in light of the patient's medical outcome, provides only minimal medical benefit;

(32) "person" means an individual, corporation, business trust, estate, trust, partnership, joint venture, association, government, governmental subdivision, governmental agency, or another legal or commercial entity;

(33) "physician" or "surgeon" means an individual licensed or otherwise authorized to practice medicine and surgery or osteopathy and surgery under the laws of any state;

(34) "primary physician" means a physician designated by an individual, or by the individual's agent, guardian, or surrogate, to have primary responsibility for the individual's health care or, in the absence of a designation or if the designated physician is not reasonably available, a physician who undertakes the responsibility;

(35) "qualified patient" means a patient with a qualifying condition who is eligible for do not resuscitate identification;

(36) "qualifying condition" means a terminal condition or permanent unconsciousness in a patient;

(37) "reasonably available" means available using a level of diligence appropriate to the seriousness and urgency of an individual's health care needs;

(38) "state" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico;

(39) "supervising health care provider" means the primary physician or the physician's designee, or the health care provider or the provider's designee who has undertaken primary responsibility for an individual's health care;

(40) "surrogate" means an individual, other than a patient's agent or guardian, authorized under this chapter to make a health care decision for the patient;

(41) "technician" means an individual who is licensed or certified by the State Medical Board to remove or process a part;

(42) "terminal condition" means an incurable or irreversible illness or injury

- (A) that without administration of life-sustaining procedures will result in death in a short period of time;
- (B) for which there is no reasonable prospect of cure or recovery;
- (C) that imposes severe pain or otherwise imposes an inhumane burden on the patient; and
- (D) for which, in light of the patient's medical condition, initiating or continuing life-sustaining procedures will provide only minimal medical benefit.

LEXIS PUBLISHING'S CODE OF FEDERAL REGULATIONS  
Copyright © 2005, LEXIS Publishing

\*\*\* THIS SECTION IS CURRENT THROUGH THE MARCH 17, 2005 ISSUE OF \*\*\*  
\*\*\* THE FEDERAL REGISTER \*\*\*

TITLE 21 -- FOOD AND DRUGS  
CHAPTER I -- FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES  
SUBCHAPTER L -- REGULATIONS UNDER CERTAIN OTHER ACTS ADMINISTERED BY THE FOOD AND DRUG ADMINISTRATION  
PART 1271 -- HUMAN CELLS, TISSUES, AND CELLULAR AND TISSUE-BASED PRODUCTS  
SUBPART D -- CURRENT GOOD TISSUE PRACTICE [EFFECTIVE MAY 25, 2005.]

21 CFR 1271.170

§ 1271.170 Personnel. [Effective May 25, 2005.]

[PUBLISHER'S NOTE: This section was added at 69 FR 68612, 68683, Nov. 24, 2004, effective May 25, 2005.]

(a) General. You must have personnel sufficient to ensure compliance with the requirements of this part.

(b) Competent performance of functions. You must have personnel with the necessary education, experience, and training to ensure competent performance of their assigned functions. Personnel must perform only those activities for which they are qualified and authorized.

(c) Training. You must train all personnel, and retrain as necessary, to perform their assigned responsibilities adequately.

**HISTORY:** [69 FR 68612, 68683, Nov. 24, 2004]

**AUTHORITY:** AUTHORITY NOTE APPLICABLE TO ENTIRE PART :  
42 U.S.C. 216, 243, 264, 271.

**NOTES:** [EFFECTIVE DATE NOTE: 69 FR 68612, 68683, Nov. 24, 2004, added Subpart D, effective May 25, 2005.]

**NOTES APPLICABLE TO ENTIRE TITLE:**

Cross References: Food Safety and Inspection Services, Department of Agriculture: See Meat and Poultry Inspection, 9 CFR CHAPTER III.

Federal Trade Commission: See Commercial Practices, 16 CFR chapter I.

U.S. Customs Service, Department of the Treasury: See Customs Duties, 19 CFR chapter I.

Internal Revenue Service, Department of the Treasury: See Internal Revenue, 26 CFR chapter I.

Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury: See Alcohol, Tobacco Production and Firearms, 27 CFR chapter I.

**NOTES APPLICABLE TO ENTIRE CHAPTER:**

[EDITORIAL NOTE: For nomenclature changes to chapter I see 59 FR 14366, Mar. 28, 1994.]

[PUBLISHER'S NOTE: For the uniform compliance date for food labeling regulations under Chapter I, see 61 FR 67710, Dec. 24, 1996; 61 FR 68145, Dec. 27, 1996; 62 FR 49881, Sept. 23, 1997.]

**NOTES APPLICABLE TO ENTIRE PART:**

[PUBLISHER'S NOTE: The authority citation for Part 1271 was revised at 69 *FR* 29786, 29829, May 25, 2004, effective May 25, 2005. For the convenience of the user, the authority citation effective May 25, 2005, has been set out below:

42 *U.S.C.* 216, 243, 263a, 264, 271.]

111 words

LEXIS PUBLISHING'S CODE OF FEDERAL REGULATIONS  
Copyright (C) 2005, LEXIS Publishing

\*\*\* THIS SECTION IS CURRENT THROUGH THE MARCH 17, 2005 ISSUE OF \*\*\*  
\*\*\* THE FEDERAL REGISTER \*\*\*

TITLE 42 -- PUBLIC HEALTH  
CHAPTER IV -- CENTERS FOR MEDICARE & MEDICAID SERVICES, DEPARTMENT OF HEALTH AND  
HUMAN SERVICES  
SUBCHAPTER G -- STANDARDS AND CERTIFICATION  
PART 482 -- CONDITIONS OF PARTICIPATION FOR HOSPITALS  
SUBPART C -- BASIC HOSPITAL FUNCTIONS

42 CFR 482.45

§ 482.45 Condition of participation: Organ, tissue, and eye procurement

(a) Standard: Organ procurement responsibilities. The hospital must have and implement written protocols that:

(1) Incorporate an agreement with an OPO designated under part 486 of this chapter, under which it must notify, in a timely manner, the OPO or a third party designated by the OPO of individuals whose death is imminent or who have died in the hospital. The OPO determines medical suitability for organ donation and, in the absence of alternative arrangements by the hospital, the OPO determines medical suitability for tissue and eye donation, using the definition of potential tissue and eye donor and the notification protocol developed in consultation with the tissue and eye banks identified by the hospital for this purpose;

(2) Incorporate an agreement with at least one tissue bank and at least one eye bank to cooperate in the retrieval, processing, preservation, storage and distribution of tissues and eyes, as may be appropriate to assure that all usable tissues and eyes are obtained from potential donors, insofar as such an agreement does not interfere with organ procurement;

(3) Ensure, in collaboration with the designated OPO, that the family of each potential donor is informed of its options to donate organs, tissues, or eyes or to decline to donate. The individual designated by the hospital to initiate the request to the family must be an organ procurement representative or a designated requestor. A designated requestor is an individual who has completed a course offered or approved by the OPO and designed in conjunction with the tissue and eye bank community in the methodology for approaching potential donor families and requesting organ or tissue donation;

(4) Encourage discretion and sensitivity with respect to the circumstances, views, and beliefs of the families of potential donors;

(5) Ensure that the hospital works cooperatively with the designated OPO, tissue bank and eye bank in educating staff on donation issues, reviewing death records to improve identification of potential donors, and maintaining potential donors while necessary testing and placement of potential donated organs, tissues, and eyes take place.

(b) Standard: Organ transplantation responsibilities. (1) A hospital in which organ transplants are performed must be a member of the Organ Procurement and Transplantation Network (OPTN) established and operated in accordance with section 372 of the Public Health Service (PHS) Act (42 U.S.C. 274) and abide by its rules. The term "rules of the OPTN" means those rules provided for in regulations issued by the Secretary in accordance with section 372 of the PHS Act which are enforceable under 42 CFR 121.10. No hospital is considered to be out of compliance with section 1138(a)(1)(B) of the Act, or with the requirements of this paragraph, unless the Secretary has given the OPTN formal

notice that he or she approves the decision to exclude the hospital from the OPTN and has notified the hospital in writing.

(2) For purposes of these standards, the term "organ" means a human kidney, liver, heart, lung, or pancreas.

(3) If a hospital performs any type of transplants, it must provide organ-transplant-related data, as requested by the OPTN, the Scientific Registry, and the OPOs. The hospital must also provide such data directly to the Department when requested by the Secretary.

**HISTORY:** [63 FR 33856, 33874, June 22, 1998]

**AUTHORITY:** AUTHORITY NOTE APPLICABLE TO ENTIRE PART:  
Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

**NOTES:** [EFFECTIVE DATE NOTE: 63 FR 33856, 33874, June 22, 1998, added this section, effective Aug. 21, 1998.]

**NOTES APPLICABLE TO ENTIRE CHAPTER:**

[PUBLISHER'S NOTE: Nomenclature changes affecting Chapter IV appear at 45 FR 53806, Aug. 13, 1980; 50 FR 12741, Mar. 29, 1985; 50 FR 33034, Aug. 16, 1985; 51 FR 41338, Nov. 14, 1986; 53 FR 6634, Mar. 2, 1988; 53 FR 47201, Nov. 22, 1988; 56 FR 8852, Mar. 1, 1991; 66 FR 39450, 39452, July 31, 2001; 67 FR 36539, 36540, May 24, 2002.]

**NOTES APPLICABLE TO ENTIRE PART:**

[PUBLISHER'S NOTE: For Federal Register citations concerning Part 482 clarifications, see: 67 FR 61805, Oct. 2, 2002.]

574 words



Homepage | Alaska News | Alaska Weather | Alaska Sports | Alaska Videos | Alaska Real Estate | Home Improvement | A  
2 Your Health | 2 on Your Side | Assignment Alaska | The Bottom Line | Market View | Spirit of Youth | What's Cookin'?

### Life Alaska moves donor registry forward

Sunday, March 13, 2005 - by Joy Mapaye

**Anchorage, Alaska** - Last year, Life Alaska made a plea to state lawmakers to create a computerized central registry for organ donors.

In June 2004, the registry became a reality with the signing of House Bill 337. The registry would include a new computerized driver's license which allows the Department of Motor Vehicles to enter a donor's information into a central computer system.

By June 2004, roughly 60,000 donors were in the Life Alaska registry. When the first DMV numbers were uploaded this number jumped to 80,000.



Shawn Wilson/KTUU-TV



Shawn Wilson/KTUU-TV

Today, there are about 170,000 donors listed according to the DMV. The registry grows by 200 to 300 names every day.

Life Alaska says it remembers all those who have helped others in a celebration service held each year. Denise Och is one of those at the event. Och lost her son, Nathanael, in an accident about two years ago. The family made the decision to donate his organs and tissues.

"We knew his character. We knew the kind of person that he was, and so the decision that we made as a family was based on what we thought he would want and we've never regretted it," said Och (right).



Shawn Wilson/KTUU-TV

"For years we've had donor cards and other means but the electronic registry allows one by the Internet to check a name instantly. Is this person on the registry? And so we're able to in every case know in Alaska if a person is on the registry," said Bruce Zalneraitis of Life Alaska donor services.



Life Alaska says the direct impact here is the cut down in waiting time, which can mean the difference between life and death. Prior to the change, about 10 to 15 names of people who passed away would appear in the registry every year. Now, five to 10 names appear each week.

Search

Mor  
Sen.  
ANV  
Oil c  
see  
Teen  
'sho  
16 I  
Non  
Scdi  
Idit:  
No  
Ue  
f

Ha  
vac

Life Alaska says about 25 other states have some form of electronic registry but the group says this number is changing as new laws go into effect.

 [EMAIL ARTICLE](#)  [PRINT ARTICLE](#)

**Related articles:**

- **State bill tries to record organ donors (March 14, 2004)**  
Representatives of Alaska's Organ Procurement Program thanked 100 donor families who gathered together Sunday. With the help of the families, the lives of the 80 Alaskans who were at the meeting have been saved.
- **New bill could save thousands of Alaskan lives (June 15, 2004)**  
Gov. Frank Murkowski is scheduled to sign House Bill 337 into law Wednesday. The bill would create an official organ donor registry at the Department of Motor Vehicles, and it is just one way organ donation in Alaska is getting easier.

**ALL NEW  
NBC FRIDAYS 10/9c**



**MEDICAL  
INVESTIGATION**

Copyright © 2004 Channel 2 Broadcasting Inc. 701 East Tudor Road, Suite # 220, Anchorage, AK, 99503-7488 Phone: (907) 762-9202 Fax: (907) 561-0



Homepage | Alaska News | Alaska Weather | Alaska Sports | Alaska Videos | Alaska Real Estate | Home Improvement | A  
2 Your Health | 2 on Your Side | Assignment Alaska | The Bottom Line | Market View | Spirit of Youth | What's Cookin'?



## New bill could save thousands of Alaskan lives

June 15, 2004 - by Joy Mapaye

Search

**Anchorage, Alaska** - Gov. Frank Murkowski is scheduled to sign House Bill 337 into law Wednesday. The bill would create an official organ donor registry at the Department of Motor Vehicles, and it is just one way organ donation in Alaska is getting easier.

At Alaska's Department of Motor Vehicles, an organ donor's wish will now be on record. Currently the department doesn't keep records of those who sign up to become organ and tissue donors, but House Bill 337 will change that, allowing the DMV to transfer an organ donor's wishes to Life Alaska.

"We're very excited that Governor Murkowski is due to sign that into legislation," said Brenda Stewart of Life Alaska donor services.

Stewart says the new registry would allow Life Alaska to quickly match the donor's gift to a potential recipient, saving time and lives.

According to the Joint Commission on Accreditation of Healthcare Organizations, more than 85,000 Americans are on the waiting list for life-saving transplants, and more than 6,000 people who are awaiting a transplant die each year.

The group says it has now begun a major initiative to break down barriers that limit donations, including cultural ones. At Life Alaska, however, that process is well underway with a special partnership at the Alaska Native Medical Center.

"The relationship with Life Alaska has been one that has developed or evolved over years," said Phyllis Goodwin, the director of critical care services at the Alaska Native Medical Center.

Goodwin said that in 1991, when she first arrived at the Alaska Native Medical Center, they didn't do organ donations. But over the years it began working on education campaigns with Life Alaska to help the community and help boost Alaska Native donors.

"We've seen our donation numbers increase over time," Goodwin said.

Goodwin says educational campaigns as well as a growing public awareness on organ and tissue donation are helping. Life Alaska agrees and says one person can make a big difference.

Life Alaska says aside from its educational outreach, it works to help families through the grieving process, and during this time the focus is on those who need help.

Mor

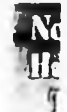
A w  
coul  
awa

10-1  
Idit

Hos  
hon

Ancl  
par

Can  
Am



H  
vac

"It's less about a background or a culture of a person and more about reaching out to people in need," Stewart said. "And if that's done in a caring and sensitive way, then it empowers people to make that decision that's right for them."

It's a decision Life Alaska says education, awareness and the new registry at the DMV are all helping people make.

Becoming part of the registry is optional. The new law will go into effect 90 days after the governor signs the bill.

---

**Related articles:**

 EMAIL ARTICLE  PRINT ARTICLE



Copyright © 2004 Channel 2 Broadcasting Inc. 701 East Tudor Road, Suite # 220, Anchorage, AK, 99503-7488 Phone: (907) 762-9202 Fax: (907) 561-0

AMENDMENT #1 - PASSED

OFFERED IN THE HOUSE

BY REPRESENTATIVE MCGUIRE

TO: HB 214

- 1 Page 2, lines 29 - 30:
- 2 Delete "and send the document or other evidence to the procurement
- 3 organization"

pg 2 ln 25

The bill would impose a requirement on law enforcement and first responders to notify an organ procurement organization when patients die outside of a hospital and to send documentation or evidence to the organization which demonstrates the patient's intent to make or refuse to make an anatomical gift.

The bill is problematic for the following reasons: (1) it imposes an obligation on EMS responders to search for and remove the drivers' license or organ donation card of a dying person, which could be offensive to family members and expose the responders to accusations of theft, including identity theft. The obligation to transmit the documentation to a procurement organization is unreasonably burdensome and could increase potential liability for removal or loss of the documentation. (2) It would create an unfunded financial burden on small volunteer services to train their providers and circulate materials with the telephone number and address for the procurement organization. Assuming the bill language "send" allows faxed transmission of the documentation, it would require services to purchase and maintain equipment for the purpose of capturing an image of organ donor documentation and transmitting it to the procurement agency by scanner, digital camera and/or fax machine. (3) It would impose a fiscal burden for training on EMS Regions who have operated for the last 14 years under straight line, or flat funding, despite increases in all cost categories. (4) Concerns exist about who is responsible and at what cost, to maintain the body until arrangements for removal and transport can be made. (5) An unexpected or unattended death is potentially a crime scene until law enforcement has determined otherwise. Prior to that time, EMS responders risk damaging evidence if they search for identification or organ donor documentation, thereby disturbing the scene.

Possible Amendments:

A#2  
PASSED  
Section AS 13.52.200(e)(1): delete "...and a procurement organization...". The hospital already has an obligation to notify the organization under AS 13.52.200(a) and (f). The burden to notify should not be imposed additionally on the first responder.

Section AS 13.52.200(e)(2): delete "...shall notify a procurement organization and send the document or other evidence to the procurement organization" and replace it with "shall notify the public safety answering point, as defined in AS 29.35.137(8) if one serves the community. The public safety answering point shall notify the procurement organization." This would remove the burden from individual responders and small communities with volunteer radio dispatch systems.

In both sections, delete the requirement to send the document or other evidence to the procurement organization. Life Alaska has indicated that the dispatcher can transmit the name and identifying information of the patient or decedent to enable them to check the donor registry database. This would make sending the documentation unnecessary. Alternatively, the obligation for sending organ donation documentation should be limited to law enforcement personnel who will be present at most of these situations, except for expected home deaths and in rural areas that have no village public safety officer.

**Kathy Hope Erickson**

---

**From:** Vanessa Tondini  
**Sent:** Tuesday, April 05, 2005 1:08 PM  
**To:** Kathy Hope Erickson  
**Cc:** Vanessa Tondini  
**Subject:** HB 214

Hi Kathy,

Bruce Scandling, HESS, is preparing an updated zero FN for HB 214, in response to the amendment we plan to offer today in HESS cmte. When you get the CS back from Leg. Legal, could you please fax it to him at 586-1877 and then he will get you the updated FN ASAP. Please list it as a new FN (the motion can be made in cmte. "with attached zero fn's, including any forthcoming fiscal note from HESS) and wait to get it before you hand the bill into the clerk to be read across. If you have any questions, call me at 4990 or Bruce at x3486.

Thank you so much!  
Vanessa

**HB**

**220**





Health, Education, and Social Services Committee  
Alaska State Legislature  
House of Representatives  
Representative Peggy Wilson, Chair

MEMORANDUM

---

Date: April 4, 2005  
To: Committee of referral: Finance  
From: Representative Peggy Wilson, chair *PW*  
Re: HB 220

The Health, Education, and Social Services Committee (HESS) passed CSHB 220 (HES) out of committee. I would like to make sure Finance Committee is aware that Providence Hospital (which would be affected occasionally by this legislation), together with the other hospitals, the Alaska Mental Health Board, and other testifiers, agrees with this. Many either have this policy in place or are developing it presently. API is currently implementing this policy, but objected to it being in statute.

With this in mind, please note that this vote by the HESS Committee was a philosophical decision.

# ALASKA STATE LEGISLATURE

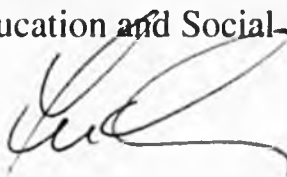


REPRESENTATIVE LES GARA

## MEMORANDUM

DATE: March 22, 2005

TO: Rep. Peggy Wilson, Chair  
House Health, Education and Social Services Committee

FROM: Rep. Les Gara 

RE: Hearing Request for HB220, Mental Health Patient Rights: Staff Gender

I respectfully request that HB 220, an act relating to mental health patients rights and to a hospital's duty to provide choice of the sex of staff providing intimate care to a mental health patient, be scheduled for hearing in the House Health, Education and Social Services Committee. Please feel free to contact me, or my aide Emily McCoy, with questions or thoughts at 465-2647.

Attached you will find a background packet for HB 220. This includes the original bill, a sponsor's statement, and backup materials.

Thank you for your consideration.

# ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA

## SPONSOR STATEMENT

### HB 220 – Mental Health Patient Privacy

---

HB 220 protects the personal privacy and safety of mental health patients. This legislation was prompted by the concerns of a former female mental health patient. Her specific concerns were the abuse of vulnerable patients and mental health patients' right to privacy.

This bill would allow a hospitalized mental health patient in Alaska to choose the gender of the person who provides them "intimate care" (bathing, toileting, etc.) If the patient is in some way incapacitated and unable to make such a request, intimate care would be provided by a staff member of the same sex. If the institution is unable to comply with a patient's request, they will simply be required to document that in the patient's record.

Every Alaska citizen is entitled to dignity, respect and protection. I urge your support of this legislation.

# ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA

## SECTIONAL ANALYSIS HB 220 – Mental Health Patient Privacy

---

- Section 1**
- ◆ Allows a hospitalized mental health patient to request the gender of the person who provides them intimate care.
  - ◆ If a person is incapacitated and unable to make a gender-specific request, the intimate care will be provided by a same-sex provider.
  - ◆ A notice must be posted of the right to choose the gender of a provider.
  - ◆ If a hospital is unable to comply with a patient's request, they must document this in the patient's chart.

24-LS0667\Y  
Mischel  
3/31/05

**CS FOR HOUSE BILL NO. 220( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVES GARA, Berkowitz, Gruenberg, Croft, Ramras, McGuire, Lynn, Kott, Cissna, Kerttula**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to mental health patient rights and to a hospital's duty to provide**  
2 **choice of the sex of staff providing intimate care to a mental health patient."**

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

4 **\* Section 1.** AS 18.20 is amended by adding a new section to read:

5 **Sec. 18.20.095. Mental health patient's right to staff selection.** (a) Except  
6 as provided under (d) of this section, a patient 18 years of age or older who is  
7 receiving mental health treatment and is being provided intimate care at a hospital  
8 when the hospital has on duty more than 10 staff members to provide direct care to  
9 mental health patients shall have a right, upon request, to care by a staff member who  
10 is the sex that the patient requests.

11 (b) If a patient 18 years of age or older who is receiving mental health  
12 treatment and is being provided intimate care is incapacitated and unable to make a  
13 request under (a) of this section, intimate care shall be provided by a staff member  
14 who is the same sex as the patient except as provided in (c)(2) and (d) of this section.

1 (c) A supervisor or manager employed by a hospital shall

2 (1) post a notice of the right provided under (a) and (b) of this section  
3 in a conspicuous place in patient rooms;

4 (2) if, after reasonable and good faith efforts to comply, the hospital is  
5 unable to comply with a patient request under (a) of this section or with the  
6 requirement under (b) of this section,

7 (A) document in the patient record that intimate care was  
8 provided by a licensed staff member of the sex opposite to that requested by  
9 the patient under (a) of this section or opposite to that of the patient under (b)  
10 of this section because of an inability to comply; or

11 (B) because a licensed staff member is not on duty at the time  
12 of the patient's request under (a) of this section or at the time compliance is  
13 required under (b) of this section, document in the patient record that the  
14 intimate care was provided by an unlicensed staff member of the sex opposite  
15 to that requested under (a) of this section or to the patient under (b) of this  
16 section for that reason;

17 (3) adopt a policy to provide intimate care as required under this  
18 section; and

19 (4) distribute the policy adopted under (3) of this subsection to relevant  
20 staff members before the provision of intimate care to a patient.

21 (d) A hospital is exempt from the requirements under (a) and (b) of this  
22 section if compliance would adversely affect patient treatment.

23 (e) In this section,

24 (1) "intimate care" means hygienic care, including bathing, dressing,  
25 changing, and toileting, that involves a patient's perineal area and, for a female patient,  
26 the patient's breasts; "intimate care" does not include activities done in preparation for  
27 medical procedures;

28 (2) "licensed staff member" means a person licensed or certified in the  
29 state under AS 08.64 (physicians and physician assistants), AS 08.65 (midwives),  
30 AS 08.68 (nurses, nurse practitioners, and nurse aides), or AS 08.84 (physical  
31 therapists);

1  
2  
3  
4  
5  
6

(3) "mental health treatment" means admission to a hospital primarily for electroconvulsive treatment or treatment with psychotropic medication, or admission to and retention in a health care institution for other mental health treatment;

(4) "staff member" means a person employe<sup>d</sup> by a hospital to provide direct patient care.

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE WILSON

TO: HB 220, Draft Version "G"

- 1 Page 1, line 5, following "A patient":  
2       Insert "18 years of age or older"  
3  
4 Page 1, line 6, following "and":  
5       Delete "who is"  
6       Insert "is being"  
7  
8 Page 1, line 9:  
9       Following "patient":  
10        Insert "18 years of age or older"  
11       Following "and":  
12        Delete "who is"  
13        Insert "is being"

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE WILSON

TO: HB 220, Draft Version "G"

- 1 Page 1, line 8, following "by a":
- 2 Delete "licensed"
- 3
- 4 Page 2, line 17 through 19:
- 5 Delete all material.
- 6
- 7 Renumber the following paragraph accordingly.

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB220-DHSS-DBH1-03-30-05  
 ( ) Publish Date: \_\_\_\_\_  
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction): \_\_\_\_\_

Title: MENTAL HEALTH PATIENTS RIGHTS AND CHOICE OF THE SEX OF STAFF PROVIDING CARE RDU Behavioral Health  
 Component: Alaska Psychiatric Institute

Sponsor: GARA  
 Requester: HOUSE (HES) Component No. 311

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 200 <sup>P</sup>	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual	200.0	20.0	20.0	20.0	20.0	20.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>200.0</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>

<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES (0)</b>						

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health	200.0	20.0	20.0	20.0	20.0	20.0
Other(Specify Type- do not abbreviate)						
Other(Specify Type-do not abbreviate)						
<b>TOTAL</b>	<b>200.0</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>	<b>20.0</b>

Estimate of any current year (FY2005) cost: \_\_\_\_\_  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

HB 220 is intended to put into law the right of a patient who receives mental health treatment to request the gender of a licensed staff person who will provide the patient's intimate care. In those cases where the patient is incapacitated, the intimate care is to be provided by a staff member who is the same sex as the patient except as provided in (c)(2) of the proposed bill.

The Department projects that it will cost \$200.0 (\$2.0 per PNA) to train and license all current Psychiatric Nursing Assistants (PNA) at API if this bill become law. It projects an on going cost of \$20.0 per year due to staff turn-over.

Prepared by: Bill Hogan, Director Phone 465-3166  
 Division: Behavioral Health Date/Time 03/30/2005  
 Approved by: Joel S. Gilbertson, Commissioner Date 03/30/2005  
 Agency: Department of Health and Social Services

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB220-DHSS-DBH2-03-30-05  
 ( ) Publish Date: \_\_\_\_\_  
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction): \_\_\_\_\_

Title: MENTAL HEALTH PATIENTS RIGHTS AND CHOICE OF THE SEX OF STAFF PROVIDING CARE RDU Behavioral Health  
 Component: Behavioral Hlth Medicaid Svcs

Sponsor: GARA  
 Requester: HOUSE (HES) Component No. 2660

**Expenditures/Revenues (Thousands of Dollars)**

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES (0)</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type do not abbreviate)						
Other(Specify Type do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: \_\_\_\_\_  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

HB 220 is intended to put into law the right of a patient who receives mental health treatment to request the gender of a licensed staff person who will provide the patient's intimate care. In those cases where the patient is incapacitated, the intimate care is to be provided by a staff member who is the same sex as the patient except as provided in (c)(2) of the proposed bill.

The Department projects that this bill will have zero fiscal impact on this component.

Prepared by: Janet Clarke, Assistant Commissioner Phone 465-1630  
 Division: Finance and Management Services Date/Time 03/30/2005  
 Approved by: Joel S. Gilbertson, Commissioner Date 03/30/2005  
 Agency: Department of Health and Social Services

To Rep Peggy Wilson Hess Committee Chair

My name is Dorrance Collins. I support the passing of the committee substitute for Housebill 220, —

I also ask that the committee read the seven support letters submitted.

Housebill 220 is based on a Bangor, Maine policy which uses words like must and will. It is a strong policy and very clear. Housebill 220 is also very strong.

In a perfect world, we could just send everyone involved an e-mail or a letter and tell them to handle it. And we could even send a letter to drivers and tell them not to speed.

Its not a perfect world. Everyone has an axe to grind. Laws/regulations/and guidelines are necessary on this issue.

Housebill 220 is fair to the psychiatric patients, many of which have been sexually abused, not always by the opposite gender, which is why gender choice for intimate care is very important.

Housebill 220 is fair to the institutions. It gives them an out. On page 2 of the Bill it says - the institutions only have to make a good faith effort, then document in the patient's records why gender choice was not provided. That is a huge loophole for any contingency for the institutions.

Defeating this bill is only a matter of convenience to the <sup>mental</sup> institutions.

What the last 100 years has taught us, is the institutions will fight for convenience — it is much more to

the patients. Its about not being degraded or humiliated and maintaining some control over your life and your

body. It is important and it is double,

We ask that Housebill 220 be

passed without being watered down to where it has no meaning to the patients.

Thank you

cc: Rep Peggy Wilson

Dianne Collins

929-0532

To Rep Peggy Wilson Hess Committee Chair ①

My name is Faith Myers. I support the passing of committee substitute of Housebill 220. I am a former Alaskan psychiatric institution in-mate.

Over the last 4 years I have testified on the issue of psychiatric patients not having the right to gender choice for hands-on intimate care.

I have traveled to Fairbanks, Juneau, and in Anchorage. I have testified in front of all relevant Boards and committees. Housebill 220 is a patients' rights bill. It is necessary.

A high percentage of the psychiatric patients in Alaska's mental hospitals have been sexually abused as children or adults. It is difficult to know which gender abused them, which is why it is important to let the patient choose the gender of the staff they feel most safe + comfortable with. This is why gender choice of staff is more preferable than same sex of staff in legislative wording of the bill.

There is an out for the institutions  
On page 2 line 2 of HB 220 it states

" the institutions must only make a reasonable and good faith effort."

On Line 4 it simply says that institutions document in the patient's record the reason why they couldn't provide the requested gender. That gives the institution an out for any contingency.

Some of the 7 support letters submitted in favor of ~~the~~<sup>a</sup> bill have been written by people who either had the experience of being in an Alaskan psychiatric institution or have had family members in an Alaskan psychiatric institution.

Housebill 220 is based on a Bangor Maine policy and it is doable.

I support <sup>Committee substitute</sup> Housebill 220 and ask that it be passed. —

cc: Rep Peggy Wilson Thank you —  
Faith m... 929-0532

APR 5 2005

## ALASKA MENTAL HEALTH BOARD

---

FRANK H. MURKOWSKI, GOVERNOR  
STATE OF ALASKA

431 N. Franklin, Suite 200  
Juneau, Alaska 99801  
Office: (907) 465-3071  
Fax: (907) 465-3079  
[www.amhb.org](http://www.amhb.org)

April 4, 2005

Representative Les Gara  
Alaska House of Representatives  
State Capitol, Room 418  
Juneau, Alaska 99501

Dear Representative Gara:

The Alaska Mental Health Board (AMHB) would like to clarify its position on HB 220. It became apparent, following the House Health Education and Social Services Committee hearing on March 31, 2005, that several committee members interpreted my testimony before the committee to indicate that the AMHB opposed HB 220.

The AMHB does not, in fact, oppose HB 220, which aims to create patient gender choice rights in statute. The Board's preferred course of action, which it initiated several weeks ago, to put in place appropriate gender choice policies in hospitals providing mental health is to work with the Division of Behavioral Health and the Alaska Psychiatric Institute to make the necessary changes in the policies and procedures of the institutions in question. The AMHB has not taken an official position on the bill. That should not be interpreted as opposition to the bill.

I appreciate the opportunity to clear up any confusion concerning the AMHB's position, both on the issue and HB 220. Thank you.

Sincerely,



Richard Rainery  
Executive Director

Cc: Representative Peggy Wilson

**BANGOR MENTAL HEALTH INSTITUTE**

**NURSING  
DEPARTMENT**

**DATE:** April 200

**PROCEDURE:** S-77A

**PAGE:** 1 of 2

**SUBJECT:** Staffing Levels

**PERFORMED BY:**

Director of Staffing Office and Nurse Supervisor

X ⇒ **POINTS TO BE EMPHASIZED:**

1. It is the Director of Staffing Office and/or Nurse Supervisor's responsibility to ensure that there are sufficient members of qualified nursing staff on each unit to provide care in a safe, efficient manner, while providing the same gender staff in the provision of intimate care if requested.
2. The approved staffing plan should not be altered because of difficulty in obtaining coverage. The number of patients in an area and the acuity of their needs including privacy must be the criteria assessed.
3. As the staffing schedules are revised and adjusted the CNM or assigned RN will have to adjust the patient assignment (modules) to ensure all patient care is properly delegated. Nurse staffing plans for each unit define the number and mix of nursing personnel. This basic staffing plan will contain a mix of LPNs and MHWs.

#Beds	Unit	7-3	3-11	11-7
17	DU	4 (plus 2 RN's)	4 (plus 2 RN's)	2 (plus 1 RN)
17	D-1	4 (plus 2 RN's)	4 (plus 2 RN's)	2 (plus 1 RN)
20	K-2	5 (plus 1 RN)	5 (plus 1 RN)	2 (plus 1 RN)
20	K-1	5 (plus 1 RN)	5 (plus 1 RN)	3 (plus 1 RN)

4. In assessing nurse staffing plans, Nursing Administration and the Director of Staffing Office give approval to the utilization of RNs, LPNs, and nursing assistants in the delivery of efficient and effective patient care.

**PROCEDURE:**

1. When providing intimate care to patients i.e. baths, changes, toileting, placement of strong gown, at least one member of the same gender must be present if requested by the patient to provide the "hands" on part of the care. If the same gender MHW is not available, the Staffing Office and/or the Nurse Supervisor should make an effort to provide the same gender MHW from another unit for the sole purpose of providing intimate care. If the Staffing Office and/or Nurse Supervisor is not successful in obtaining the same gender MHW, a licensed staff person will provide this care. It is expected that the Staffing Office and/or Nurse Supervisor shall be notified if this practice is not followed for patients who request same gender care.

**BANGOR MENTAL HEALTH INSTITUTE**

**NURSING  
DEPARTMENT**

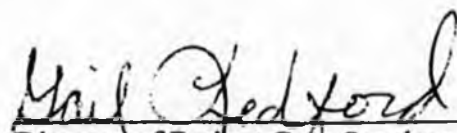
**DATE:** April 2004

**PROCEDURE:** S-77A

**PAGE:** 2 of 2

**SUBJECT:** Staffing Levels

2. Staffing may be adjusted upwards for one quarter of an hour up to a whole shift when:
  - a. Acuity rises
    1. Severely agitated patients
    2. Patients on special observation i.e., 1:1, 15 minute checks, medical observations, etc.
  - ~~—~~ b. Same gender privacy needs are required.
  - c. Special programming approved by Nursing Administration is occurring.
  - d. Staff participate in patient conferences and in-house educational offerings.
3. Staffing may be adjusted downward for one quarter of an hour up to a whole shift under the following conditions:
  - a. Acuity drops, which may result from:
    1. Drops in census
    2. Wellness of patients
  - b. Decrease in programming demands on weekends and holidays or after patients go to bed (staffing will at no time go below 2 per ward).
4. If the Nurse Supervisor or Director of Staffing Office is considering decreasing staff based on acuity, she/he must:
  - a. Assess the acuity on the unit in question by:
    1. Making rounds
    2. Reading reports
    3. Making patient assessments as needed
    4. Conferring with the Unit CNM, RN and /or Nursing Administration.
    5. Consulting with the PSD and CNM if considering a decrease in the number of RN's on D-U or D-1 from 2 RN's to 1 RN.
  - b. Determining the number of patients on unit (acute vs. non-acute) or when leave patients are expected to return.
  - c. Assess the impact on the building at large in the event of Code 88 calls, Dr. Stats, acute admissions, etc.
5. Nursing Administration will review this staffing plan in detail with staff input on an annual basis and as warranted by changing patient care needs, census, and standards.

  
Director of Patient Care Services

Original date: July 1990

## Rebecca Rooney

---

**From:** Patrick Higgins [Patrick.Higgins@uhsinc.com]  
**Sent:** Tuesday, March 29, 2005 2:27 PM  
**To:** Rep. Peggy Wilson; Rep. Paul Seaton; Rep. Tom Anderson; Rep. Vic Kohring; Rep. Lesil McGuire; Rep. Sharon Cissna; Rep. Berta Gardner

Chairperson Wilson and Members of the House Education and Social Services Committee:

My name is Pat Higgins and I am the Human Resources Director for North Star Behavioral Health System. This e-mail is to express concerns regarding HB 220.

While I understand and appreciate the need to establish special rights for mental health patients, HB 220 creates special problems when applied to minors. As the largest mental health facility in Alaska serving patients 3 through 17 years old, and the only provider for children under the age of 13, HB 220 will generate a number of patient care issues for North Star Behavioral Health System. These issues include the following:

1. Adolescent boys and girls, pre-teen children, and even younger children, often have boundary issues involving sexual contact. It is not unusual for this population to seek the opportunity to establish unhealthy relationships with staff. For example, adolescent girls will often attempt to get the attention of male staff members. For this reason, we limit the placement of male staff in the adolescent girls unit. Under HB 220, adolescent girls will have the right to select male staff to monitor and/or assist them as an opportunity to expose themselves.

2. The "licensed medical provider" requirement will create significant problems to North Star. Each unit (children and adolescent) is staffed with one nurse and several Mental Health Specialists. Mental Health Specialists at North Star are hired with a degree in psychology or a related field, or they have the significant relevant education and experience. Mental Health Specialists monitor all patients for safety while the nurse is responsible for nursing care. Some patients must be monitored on a continuous basis in a one patient to one staff ratio due to safety concerns, even when the patient is in the restroom. HB 220 will not allow Mental Health Specialists to perform this function, since they are not a licensed medical care provider. Therefore, only the nurse will be legally allowed to assist these patients. Since there is only one nurse for each unit, we obviously do not have both a male and female nurse available at all times. Additionally, since there are very few male psychiatric nurses in Alaska, it will be close to impossible to increase staffing to fully comply with this law.

3. Requiring licensed staff to assist minor aged patients also seems unnecessary. With a nationwide shortage of nurses, the use of nurses to monitor and assist minors in the restroom does not appear to be best use of their skills. For example, under HB 220 it is my understanding that only a nurse could assist a 3-year-old patient while they are using a restroom.

4. The decisions regarding the medical treatment of minors, including the selection of medical care providers, rests with the parent or legal guardian. For approximately 40 percent of our patients, the legal guardian is the State of Alaska (Office of Children Services). HB 220 would shift the medical provider gender selection to the minor. It is in the best interest of the minor that the parent or legal guardian continues to make all medical care decisions.

5. North Star Behavioral Health System has a policy that requires a staff member of the same gender be present in the room when a patient is disrobed for any reason. This policy addresses the safety of the patient as well as protecting the staff from allegations of improper conduct. Under HB 220, staff could be prevented from following this policy.

I appreciate and respect the goals of HB 220. But the application of this bill to minors creates serious patient care issues. Therefore, I would like to recommend that this bill not apply to patients under the age of 18.

Thank you for your consideration. If you have any questions or I can provide additional information to support your review and decision, please let me know.

Patrick Higgins  
HR Director, North Star Behavioral Health Systems 2530 DeBarr Rd.  
Anchorage, Alaska 99508  
907-258-7575

Home Address:  
9140 Granite Place  
Anchorage, Alaska 99507  
907-349-3628

UHS Confidentiality Notice: This e-mail message, including any attachments, is for the sole use of the intended recipient (s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution of this information is prohibited. If this was sent to you in error, please notify the sender by reply e-mail and destroy all copies of the original message.