

STATE OF ALASKA
EXECUTIVE ORDER NO. 76

1990



Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance with AS 24.08.210, I order the following:

* Section 1. FINDINGS. As governor, I find that it would be in the best interest of efficient administration to reassign to division status the office of alcoholism and drug abuse, in the Department of Health and Social Services. This reassignment is necessary in order to give appropriate recognition to, and to provide for better coordination of efforts for, two of the state's most serious public health problems - alcoholism and drug abuse.

* Sec. 2. AS 47.37.020 is amended to read:

Sec. 47.37.020. DIVISION [OFFICE] OF ALCOHOLISM AND DRUG ABUSE. A division [AN OFFICE] of alcoholism and drug abuse is established in the department. The division [OFFICE] shall be headed by a director [COORDINATOR] appointed by the commissioner. The director must

[COORDINATOR SHALL] be a qualified professional who has training and experience in the organization and administration of treatment services for persons with medical-social problems. The director [COORDINATOR] is in the partially exempt [CLASSIFIED] service under AS 39.25.120(c)(2).

* Sec. 3. AS 47.37.030 is amended to read:

Sec. 47.37.030. POWERS OF DIVISION [OFFICE]. The division [OFFICE] may

(1) plan, establish, and maintain programs for the prevention and treatment of alcoholism, drug abuse, and misuse of hazardous volatile materials and substances by inhalant abusers;

(2) make contracts and award grants necessary or incidental to the performance of its duties and the execution of its powers, including contracts with the grants to public and private agencies, organizations, and individuals, to pay them for services rendered or furnished to alcoholics, intoxicated persons, drug abusers, or inhalant abusers; to the maximum extent possible, contracts and grants must be for a period of two years; contracts under this paragraph are governed by AS 36.30 (State Procurement Code);

(3) solicit and accept for use a gift of money or property or a grant of money, services, or property from the federal government, the state, or a political subdivision of it or a private source, and do all things necessary to cooperate with the federal government or any of its agencies in making an application for a grant;

(4) administer or supervise the administration of the provisions relating to alcoholics, intoxicated persons, drug abusers, and inhalant abusers of state plans submitted for federal funding under federal health, welfare, or

treatment legislation;

(5) coordinate its activities and cooperate with alcoholism, drug abuse, and inhalant abuse programs in this and other states, and make contracts and other joint or cooperative arrangements with state, local, or private agencies for the treatment of alcoholics, intoxicated persons, drug abusers, and inhalant abusers, and for the common advancement of alcoholism, drug abuse, and inhalant abuse programs in this and other states;

(6) keep records and engage in research and the gathering of relevant statistics;

(7) do other acts necessary to implement the authority expressly granted to it;

(8) acquire, hold, or dispose of real property or any interest in it, and construct, lease, or otherwise provide treatment facilities for alcoholics, intoxicated persons, drug abusers, and inhalant abusers; however, the division [OFFICE] shall encourage local initiative, involvement, and financial participation under grants-in-aid whenever possible in preference to the construction or operation of facilities directly by the division [OFFICE]; contracting and construction under this paragraph are governed by AS 36.30 (State Procurement Code).

* Sec. 4. AS 47.37.040 is amended to read:

Sec. 47.37.040. DUTIES OF DIVISION [OFFICE]. The division [OFFICE] shall

(1) develop, encourage, and foster statewide, regional, and local plans and programs for the prevention of alcoholism and drug abuse and treatment of alcoholics, intoxicated persons, drug abusers, and inhalant abusers in cooperation with public and private agencies, organizations,

and individuals, and provide technical assistance and consultation services for these purposes;

(2) coordinate the efforts and enlist the assistance of all public and private agencies, organizations, and individuals interested in prevention of alcoholism, drug abuse, and inhalant abuse, and treatment of alcoholics, intoxicated persons, drug abusers, and inhalant abusers;

(3) cooperate with the Department of Corrections in establishing and conducting programs to provide treatment for alcoholics, intoxicated persons, drug abusers, and inhalant abusers in or on parole from penal institutions;

(4) cooperate with the Department of Education, school boards, schools, police departments, courts, and other public and private agencies, organizations, and individuals in establishing programs for the prevention of alcoholism, drug abuse, and inhalant abuse, and treatment of alcoholics, intoxicated persons, drug abusers, and inhalant abusers, and preparing curriculum materials for use at all levels of school education;

(5) prepare, publish, evaluate, and disseminate educational material dealing with the nature and effects of alcohol and drugs, and the misuse of hazardous volatile substances;

(6) develop and implement, as an integral part of treatment programs, an educational program for use in the treatment of alcoholics, intoxicated persons, drug abusers, and inhalant abusers that includes the dissemination of information concerning the nature and effects of alcohol, drugs, and hazardous volatile substances;

(7) organize and foster training programs for all persons engaged in treatment of alcoholics, intoxicated

persons, drug abusers, and inhalant abusers, and establish standards for training paraprofessional alcoholism, drug abuse, and inhalant abuse workers;

(8) sponsor and encourage research into the causes and nature of alcoholism, drug abuse, and inhalant abuse, and the treatment of alcoholics, intoxicated persons, drug abusers, and inhalant abusers, and serve as a clearing-house for information relating to alcoholism, drug abuse, and inhalant abuse;

(9) specify uniform methods for keeping statistical information by public and private agencies, organizations, and individuals, and collect and make available relevant statistical information, including number of persons treated, frequency of admission and readmission, and frequency and duration of treatment;

(10) advise the governor in the preparation of a comprehensive plan for treatment of alcoholics, intoxicated persons, drug abusers, and inhalant abusers;

(11) review all state health, welfare, and treatment plans to be submitted for federal funding, and advise the commissioner on provisions to be included relating to alcoholics, intoxicated persons, drug abusers, and inhalant abusers;

(12) assist in the development of, and cooperate with, alcohol, drug abuse, and inhalant abuse education and treatment programs for employees of state and local governments and businesses and industries in the state;

(13) use the support and assistance of interested persons in the community, particularly recovered alcoholics, drug abusers, and inhalant abusers, to encourage alcoholics, drug abusers, and inhalant abusers to voluntarily

undergo treatment;

(14) cooperate with the Department of Public Safety and the Department of Transportation and Public Facilities in establishing and conducting programs designed to deal with the problem of persons operating motor vehicles while intoxicated or under the influence of drugs;

(15) encourage hospitals and other appropriate health facilities to admit without discrimination alcoholics, intoxicated persons, drug abusers, and inhalant abusers and to provide them with adequate and appropriate treatment;

(16) encourage all health and disability insurance programs to include alcoholism and drug abuse as a covered illness;

(17) submit to the legislature an annual report covering the activities of the division [OFFICE];

(18) develop and implement a training program on alcoholism and drug abuse for employees of state and municipal governments, and private institutions;

(19) develop curriculum materials on drug and alcohol abuse and the misuse of hazardous volatile substances for use in grades kindergarten through 12, as well as a course of instruction for teachers to be charged with presenting the curriculum.

* Sec. 5. AS 47.37.050 is amended to read:

Sec. 47.37.050. INTERDEPARTMENTAL COORDINATING COMMITTEE. (a) An interdepartmental coordinating committee is created, composed of the director [COORDINATOR], the commissioners of health and social services, education, transportation and public facilities, labor, and public safety, and the director of the Alcoholic Beverage Control Board. The committee shall meet at least twice annually at the call of

the commissioner of health and social services who is its chairman. The committee shall provide for the coordination and exchange of information on all programs relating to alcoholism or drug abuse and act as a permanent liaison among state departments engaged in activities affecting alcoholics, intoxicated persons, and drug abusers. The committee shall assist the commissioner of health and social services and the director [COORDINATOR] in formulating a comprehensive plan for prevention of alcoholism and drug abuse and for treatment of alcoholics, intoxicated persons, and drug abusers.

(b) In exercising its coordinating functions, the committee shall assure that the appropriate state agencies

(1) provide all necessary medical, social, treatment, and educational services for alcoholics, intoxicated persons, and drug abusers and for the prevention of alcoholism and drug abuse, without unnecessary duplication of services;

(2) cooperate in the use of facilities and in the treatment of alcoholics, intoxicated persons, and drug abusers;

(3) adopt approaches for the prevention of alcoholism and drug abuse and the treatment of alcoholics, intoxicated persons, and drug abusers consistent with the policy of AS 47.37.010 - 47.37.270.

* Sec. 6. AS 47.37.120 is amended to read:

Sec. 47.37.120. PROGRAM DIRECTOR [COORDINATOR]. The director [COORDINATOR] shall carry out the development and implementation of a comprehensive program dealing with the prevention and treatment of, and research on, problems of alcoholism and drug abuse as they affect the state.

* Sec. 7. AS 47.37.130 is amended to read:

Sec. 47.37.130. COMPREHENSIVE PROGRAM FOR TREATMENT; REGIONAL FACILITIES. (a) The division [OFFICE] shall establish a comprehensive and coordinated program for the treatment of alcoholics, intoxicated persons, drug abusers, and inhalant abusers. Subject to the approval of the commissioner, the director [COORDINATOR] may divide the state into appropriate regions to conduct the program and establish standards for the development of the program on the regional level. In establishing the regions, consideration shall be given to the city and borough lines and population concentrations and, when feasible, programs must be established with maximum local community involvement.

(b) The program of the division [OFFICE] shall include

- (1) emergency treatment provided by a facility affiliated with or part of the medical service of a general hospital;

- (2) inpatient treatment;

- (3) intermediate treatment; and

- (4) outpatient and follow-up treatment.

(c) The division [OFFICE] shall insure that adequate and appropriate treatment is provided to alcoholics and intoxicated persons admitted under AS 47.37.160 - 47.37.190 within the limits of available state and federal funds.

(d) The division [OFFICE] shall maintain, supervise and control all facilities operated by it subject to the regulations of the department. The administrator of each facility shall make an annual report of its activities to the director [COORDINATOR] in the form and manner the director [COORDINATOR] specifies.

(e) If possible, the division [OFFICE] shall

coordinate the activities of the program with all appropriate public and private resources.

(f) The director [COORDINATOR] shall prepare, publish, and distribute annually a list of all approved public and private treatment facilities.

(g) The division [OFFICE] may contract for the use of any facility as an approved public treatment facility if the director [COORDINATOR], subject to the regulations of the department, considers this an effective and economical course to follow. Contracting under this subsection is governed by AS 36.30 (State Procurement Code).

* Sec. 8. AS 47.37.140 is amended to read:

Sec. 47.37.140. PUBLIC AND PRIVATE TREATMENT FACILITIES. (a) The division [OFFICE] shall establish standards for facilities (these standards may vary in their requirements and stringency according to the population, price level, remoteness, access to transportation, and availability of ancillary services of the area to be served) and shall fix the fees to be charged for the required inspections of those facilities. A facility shall meet the applicable standards before it is approved as a public or private treatment facility. The standards shall be enacted in a manner that will provide protection of the health, safety and well-being of clients of the affected programs and protection for the affected programs from exposure to malpractice and liability actions.

(b) The division [OFFICE] shall inspect, on a regular basis, approved public and private treatment facilities at reasonable times and in a reasonable manner.

(c) The division [OFFICE] shall maintain a list of approved public and private treatment facilities.

(d) An approved public and private treatment facility shall file with the division [OFFICE] on request, data, statistics, schedules, and information which the division [OFFICE] reasonably requires. An approved public or private treatment facility that without good cause fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent returns of them, shall be removed from the list of approved treatment facilities.

(e) The director [COORDINATOR], after holding a hearing under the provisions of the Administrative Procedure Act (AS 44.62), may suspend, revoke, limit, restrict, or refuse to grant an approval for a treatment facility, for failure to meet its standards.

(f) Upon petition of the division [OFFICE] and after a hearing held upon reasonable notice to the facility, the district court may issue a warrant to an officer or employee of the division [OFFICE] authorizing the officer or employee to enter and inspect at reasonable times, and examine the books and accounts of an approved public or private treatment facility refusing to consent to inspection or examination by the division [OFFICE] or which the division [OFFICE] has reasonable cause to believe is operating in violation of this chapter.

* Sec. 9. AS 47.37.150 is amended to read:

Sec. 47.37.150. ACCEPTANCE FOR TREATMENT. The director [COORDINATOR] shall adopt regulations for the admission of persons into the treatment program, considering available treatment resources and facilities, for the purpose of early and effective treatment of alcoholics, intoxicated persons, drug abusers, and inhalant abusers. In adopting the regulations the director [COORDINATOR] shall be guided by the

following standards:

(1) if possible a patient must be treated on a voluntary rather than an involuntary basis;

(2) a patient must be initially assigned or transferred to outpatient or intermediate treatment, unless the patient is found to require inpatient treatment;

(3) a person may not be denied treatment solely because the person has withdrawn from treatment against medical advice on a prior occasion or because the person has relapsed after earlier treatment;

(4) an individualized treatment plan must be prepared and maintained on a current basis for each patient;

(5) provision must be made for a continuum of coordinated treatment services, so that a person who leaves a facility or a form of treatment will use other appropriate treatment and facilities.

* Sec. 10. AS 47.37.160(b) is amended to read:

(b) Subject to regulations adopted by the director [COORDINATOR], the administrator in charge of an approved public treatment facility may determine who shall be admitted for treatment. If a person is refused admission to an approved public treatment facility, the administrator shall, if possible, refer the person to another approved public treatment facility.

* Sec. 11. AS 47.37.200(c) is amended to read:

(c) A person committed under AS 47.37.190 - 47.37.200 shall remain in the custody of a private or public facility for treatment for a period of up to 30 days. At the end of the 30- day period, the person shall be discharged automatically unless the division [OFFICE], before the expiration of the period, obtains a court order for recommitment upon

the grounds set out in AS 47.37.190(a) for a further period of up to 90 days. If a person has been committed because the person is an alcoholic likely to inflict physical harm on another, the division [OFFICE] shall apply for recommitment if after examination it is determined that the likelihood still exists.

* Sec. 12. AS 47.37.200(d) is amended to read:

(d) A person recommitted under (c) of this section who has not been discharged by the private or public facility before the end of the 90-day period shall be discharged at the expiration of that period unless the division [OFFICE], before expiration of the period, obtains a court order on the grounds set out in AS 47.37.190(a) for recommitment for a further period not to exceed 90 days. If a person has been committed because the person is an alcoholic likely to inflict physical harm on another, the division [OFFICE] shall apply for recommitment if after examination it is determined that the likelihood still exists. No more than two recommitment orders may be permitted under (c) and (d) of this section.

* Sec. 13. AS 47.37.200(g) is amended to read:

(g) A person committed to the custody of the division [OFFICE] for treatment shall be discharged at any time before the end of the period for which the person has been committed if either of the following conditions is met:

(1) when an alcoholic committed on the grounds of likelihood of infliction of physical harm on another is no longer considered an alcoholic or the likelihood of the person inflicting physical harm no longer exists; or

(2) when, in the case of an alcoholic committed on the grounds of the likelihood of infliction of physical

harm on another, either

(A) further treatment will not be likely to bring about significant improvement in the person's condition, or

(B) treatment is no longer adequate or appropriate.

* Sec. 14. AS 47.37.210(b) is amended to read:

(b) Notwithstanding (a) of this section, the director [COORDINATOR] may make available information from patients' records for purposes of research into the causes and treatment of alcoholism. No information may disclose a patient's name.

* Sec. 15. AS 47.37.230(b) is amended to read:

(b) The director [COORDINATOR] shall adopt regulations for the establishment, training, and conduct of emergency service patrols.

* Sec. 16. AS 47.37.240 is amended to read:

Sec. 47.37.240. PAYMENT FOR TREATMENT. (a) A patient in an approved treatment facility, or the person obligated to provide for the cost of treatment of a person committed under AS 47.37.010 - 47.37.270, is liable to the public or private facility for the cost of maintenance and treatment of the patient in accordance with rates established by the director [COORDINATOR].

(b) The director [COORDINATOR] shall adopt regulations governing financial ability that take into consideration the income, savings, and other personal and real property of the person liable for the cost and maintenance of the patient.

* Sec. 17. AS 47.37.260 is amended to read:

Sec. 47.37.260. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT. Except as otherwise provided in this chapter, the

Administrative Procedure Act (AS 44.62) applies to and governs all administrative action taken by the director [COORDINATOR] under this chapter.

* Sec. 18. AS 47.37.270(3) is amended to read:

(3) "approved public treatment facility" or "public facility" means a treatment agency operating under the direction and control of the division [OFFICE] or providing treatment under AS 47.37.010 - 47.37.270 through a contract with the division [OFFICE] under AS 47.37.130(g) or through a grant awarded under AS 47.30.475, and meeting the standards prescribed in AS 47.37.140(a) and approved under AS 47.37.140(c);

* Sec. 19. AS 47.37.270 is amended by adding new paragraphs to read:

(17) "director" means the director of the division of alcoholism and drug abuse;

(18) "division" means the division of alcoholism and drug abuse in the Department of Health and Social Services.

* Sec. 20. AS 47.37.270(6) and AS 47.37.270(12) are repealed.

* Sec. 21. This Order takes effect on March 10, 1990.

DATED: January 8, 1990

/s/ Steve Cowper

Steve Cowper, Governor