

**ALASKA STATE LEGISLATURE**  
**SENATE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE**

March 18, 2015

1:32 p.m.

**MEMBERS PRESENT**

Senator Bert Stedman, Chair  
Senator Cathy Giessel, Vice Chair  
Senator Bill Stoltze  
Senator Johnny Ellis  
Senator Pete Kelly

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 23

"An Act relating to immunity for prescribing, providing, or administering opioid overdose drugs."

- HEARD & HELD

SENATE BILL NO. 55

"An Act relating to the practice of optometry."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 23

SHORT TITLE: IMMUNITY FOR PROVIDING OPIOID OD DRUG

SPONSOR(s): SENATOR(s) ELLIS

01/21/15	(S)	READ THE FIRST TIME - REFERRALS
01/21/15	(S)	HSS, JUD
03/18/15	(S)	HSS AT 1:30 PM BUTROVICH 205

BILL: SB 55

SHORT TITLE: OPTOMETRY & OPTOMETRISTS

SPONSOR(s): SENATOR(s) GIESEL BY REQUEST

02/18/15	(S)	READ THE FIRST TIME - REFERRALS
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02/18/15 (S) HSS, L&C  
03/18/15 (S) HSS AT 1:30 PM BUTROVICH 205

**WITNESS REGISTER**

AMORY LELAKE, Staff  
Senator Johnny Ellis  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Provided the sectional analysis of SB 23.

DR. PAULA COLESCOTT, Addiction Specialist  
Providence Breakthrough  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 23.

KATE BURKHART, Executive Director  
Advisory Board on Alcohol and  
Drug Abuse and Alaska Mental Health Board  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of SB 23.

KARA NELSON, Member  
Juneau Recovery Community and  
Director  
Haven House  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of SB 23.

JANE CONWAY, Staff  
Senator Cathy Giessel  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented the sectional analysis of SB 55 on behalf of the sponsor.

RACHEL REINHARDT, Ophthalmologist  
American Academy of Ophthalmology  
Seattle, Washington

**POSITION STATEMENT:** Testified in opposition to SB 55.

JEFF GONNASON, Optometrist  
Alaska Optometric Association  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 55.

SCOTT LIMSTROM, Ophthalmologist

Alaska Academy of Eye Physicians  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 55.

PAUL BARNEY, Chairman  
Alaska Board of Examiners in Optometry  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 55.

JILL MATHESON, Optometrist  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of SB 55.

FORREST MESSERSCHMIDT, Optometrist  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of SB 55.

#### **ACTION NARRATIVE**

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**CHAIR BERT STEDMAN** called the Senate Health and Social Services Standing Committee meeting to order at 1:32 p.m. Present at the call to order were Senators Ellis, Stoltz, Giessel, and Chair Stedman. He said it is the first hearing of two bills, SB 23 and SB 55, and he plans to hold them in committee today.

#### **SB 23-IMMUNITY FOR PROVIDING OPIOID OD DRUG**

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CHAIR STEDMAN announced the consideration of SB 23.

SENATOR JOHNNY ELLIS, Alaska State Legislature, sponsor of SB 23, introduced the bill. He said fatal drug overdoses have increased more than six-fold in the past three decades and now claim the lives of over 36,000 Americans every year. Specific to this bill is heroin use and, in Alaska, heroin use is here in force. Heroin-related overdoses are claiming more young lives than traffic fatalities, according to the Anchorage Police Department. The 2014 Alaska Troopers' Drug Report identified an increase in heroin abuse and the continued use of other opiates as significant concerns. He noted he and former-Senator Dyson have brought this issue before the legislature over the years; the need for more Methadone clinic funding, the appearance of new drugs, and the rise in drug-related burglaries.

SENATOR ELLIS maintained that the abuse and overdose epidemic is largely driven by addiction to prescription opioids, such as

OxyContin, Oxycodone, and Vicodin. These drugs have grown more expensive over time so the abusers and addicts seek out a cheaper alternative, such as black tar heroin imported to Alaska by the Mexican drug cartel.

He said the face of heroin is also changing; heroin abuse is across all economic levels, is at an epidemic level, and has reached every corner of the state. No community is left unscathed. These highly addictive drugs are extremely deadly. This trend is troubling because prescription opioids are popular among young Alaskans.

He pointed out that opioid overdose is reversible through the timely administration of the medication naloxone, but that medication is often not available when needed. Friends and family members are often the ones who are best situated to save the life of the person having the overdose. Currently, medical professionals are wary of prescribing naloxone and lay persons are wary of administering them due to potential civil liability.

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He summarized that the bill is a simple Good Samaritan bill that removes the civil liability from doctors and trained bystanders. He concluded that SB 23 is an attempt to help reverse the opioid overdose epidemic and he hopes that Alaska becomes the 29th state to have this provision. It is a life and death situation.

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AMORY LELAKE, Staff, Senator Johnny Ellis, Alaska State Legislature, provided the sectional analysis of SB 23:

**Section 1.** Amends AS 09.65 by adding a new section (09.65.340) to give immunity for prescribing, providing, or administering an opioid overdose drug

**Subsection (a)** exempts a person from civil liability if providing or prescribing an opioid overdose drug if the prescriber or provider is a health care provider or an employee of an opioid overdose program and the person has been educated and trained in the proper emergency use and administration of the opioid overdose drug

**Subsection (b)** except as provided in (c) exempts a person who administers an opioid overdose drug to another person who the person reasonably believes is experiencing an opioid overdose emergency if the person

1. Was prescribed or provided the drug by a health care provider or opioid overdose program and
2. Received education and training in the proper emergency use and administration

**Subsection (c)** does not preclude liability for civil damages that are a result of gross negligence or reckless or intentional misconduct

**Subsection (d)** defines

1. "health care provider" as a licensed physician, advanced nurse practitioner, physician assistant, village health aide, or pharmacist operating within the scope of the health care provider's authority;
2. "opioid" includes the opium and opiate substances and opium and opiate derivatives listed in AS 11.71.140
3. "opioid overdose drug" means a drug that reverses in whole or part the pharmacological effects of an opioid overdose
4. "opioid overdose program" means a program operated or otherwise funded by the federal government, the state, or a municipality that provides opioid overdose drugs to persons at risk of experiencing an opioid overdose or to a family member, friend, or other person in a position to assist a person at risk of experiencing an overdose.

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CHAIR STEDMAN asked if the committee had any questions.

MS. LELAKE read from the sponsor statement:

States across the country have enacted laws to increase access to treatment for opioid overdose as a way to combat increasing opioid overdose rates. Senate Bill 23 provides immunity from civil liability to health care providers who prescribe and bystanders who administer opioid overdose drugs like naloxone in cases of opioid overdose.

Naloxone (also known by the brand name Narcan) is a medication called an opioid antagonist and is used to counter the effects of opioid overdose, from drugs like OxyContin, morphine, or heroin. Naloxone is extremely safe and effective at reversing opioid overdose.

Specifically, naloxone is used in opioid overdose to counteract life-threatening depression of the central nervous system, allowing an overdose victim to breathe normally. Naloxone is not a controlled substance, has NO abuse potential, and has zero effect if administered to someone with no opiates in their system.

Naloxone, much like an epi pen for severe allergic emergencies, comes in the form of a nasal spray or is injected in a muscle or vein. The efficacy of naloxone is fundamentally time dependent.

Death from overdose typically occurs within 1 to 3 hours, although earlier in some cases, leaving a brief window of opportunity for intervention. Naloxone takes effect immediately and can last between 30 and 90 minutes.

Naloxone is both safe and effective. For more than three decades, naloxone has been used by emergency medical personnel to reverse overdoses. It is regularly carried by medical first responders and can be administered by ordinary citizens with little or no formal training.

Data from recent pilot programs demonstrate that lay persons are consistently successful in safely administering naloxone and reversing opioid overdose. The problem is, friends or family members of overdose victims, not emergency medical personnel, are most often the actual first responders and are best positioned to intervene within an hour of the onset of overdose symptoms.

As a result of rising opioid abuse and overdose, in 2001, New Mexico became the first state to amend its laws to make it easier for medical professionals to prescribe and dispense naloxone without liability concerns, and for lay administrators to use it without fear of legal repercussions.

At the urging of organizations including the US Conference of Mayors, the American Medical Association and the American Public Health Organization, a number of states have addressed the epidemic by removing

legal barriers to the timely administration of naloxone.

These changes come in two general varieties: The first is the approach in SB23 - which encourages the wider prescription and use of naloxone by removing the possibility of negative legal action against prescribers and lay administrators who prescribe the drugs to those who may be able to use to reverse overdose.

So far, 27 states and the District of Columbia have made this important change.

The second change encourages bystanders to become Good Samaritans by summoning emergency responders without fear of arrest or other negative legal consequences. Thankfully, the legislature wisely took that critical step last year by passing Representative Lance Pruitt's "Make the Call" Good Samaritan bill, House Bill 369. Alaska is among 21 states to have passed similar legislation in recent years. Based partly on these changes to state law, at least 188 community-based overdose prevention programs now distribute naloxone.

As of 2010, those programs had provided training and naloxone to over 50,000 people, resulting in over 10,000 overdose reversals. A recent evaluation of one such program in Massachusetts, which trained over 2,900 potential overdose bystanders, reported that opioid overdose death rates were significantly reduced in communities in which the program was implemented compared to those in which it was not.

Given the safety and effectiveness of naloxone, many public health advocates question why naloxone is not available over the counter. I point this out because its status as a prescription medication does not mean it is dangerous or difficult to use. Italy, for example, has had naloxone available over the counter since the 1980s without any reported negative consequences.

It is understandable that regulators did not foresee the utility of naloxone as a public health intervention carried out by people who are not medical professionals. But, in the midst of our current

epidemic of accidental deaths related to illicit and prescription opioids, these restrictions are untenable.

One very important thing to point out, Mister Chairman, is that Senate Bill 23 is not the result of a rash of lawsuits over providing or administering lawsuits. I spoke with national experts who told me I would be hard pressed to find any case law related to this issue. SB23 simply removes an unintended barrier to this life-saving drug.

Finally, Mister Chairman, Senate Bill 23 is not a replacement for substance abuse treatment. Drug enforcement and rehabilitation are also critical components of this war on addiction. SB23 simply gives doctors and bystanders to overdoses the peace of mind that they will not be held civilly liable for doing the right thing, and perhaps more importantly, Mister Chairman, gives families and loved ones of addicts a life-saving tool against the heartbreak caused by opioid overdose.

SB23 is supported by The Alaska State Medical Association, The Alaska Police Department Employees Association, the Alaska Mental Health Trust Authority, the Alaska Mental Health Board and Advisory Board on Alcoholism and Drug Abuse, the Narcotic Drug Treatment Center, and countless families and addicts who could not be here today.

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SENATOR STOLTZE objected to the idea that the bill is a "Good Samaritan" effort. He noted SB 23 is related to civil immunity and asked if there was any relationship to criminal immunity.

MS. LAKE stated that the bill is only related to civil liability and relates to the Good Samaritan Act in that it is about accessing medical personnel for fast treatment.

CHAIR STEDMAN opened public testimony.

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DR. PAULA COLESCOTT, Addiction Specialist, Providence Breakthrough, testified in support of SB 23. She said she has been involved with the overdose population for over eight years. She agreed that there is an avalanche of opioid use and

overdose. Patients report that their friends try to resuscitate overdoses by putting them in a tub of cold water and it doesn't work. She spoke of the brain damage as a result of overdose.

She opined the bill gives a green light to first responders and physicians who are trained to save the life of someone who is experiencing an accidental overdose. She described cases of overdose.

She said naloxone is a safe method of preventing overdoses. She highly encouraged approval of the bill. She concluded that the American Society of Addiction Medicine has published a public policy statement which agrees with the rescue of overdoses.

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KATE BURKHART, Executive Director, Advisory Board on Alcohol and Drug Abuse and Alaska Mental Health Board, testified in support of SB 23. She said she agrees with the previous testimony. She said she has received numerous letters of support for this bill. She described how SB 23 provides protection and policy guides to physicians and family members.

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KARA NELSON, Member, Juneau Recovery Community, and Director, Haven House, testified in support of SB 23. She described her personal history with drug addiction and overdose. She related how important the drug naloxone is. She shared a personal story of overdoses. She pointed out that addiction does not discriminate. She testified how important one saved life is. She said the bill will keep people from being afraid of going to jail when saving a life. She concluded that it is a public issue, not a criminal issue.

She described her work with Haven House and the fears people have. She noted that Narcan is so important to recovery.

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CHAIR STEDMAN closed public testimony.

SENATOR STOLTZE named supporters of the bill and wished to hear from the criminal division. He supported the direction of the bill away from criminal ramifications.

CHAIR STEDMAN held SB 31 in committee.

**SB 55-OPTOMETRY & OPTOMETRISTS**

[2:07:08 PM](#)

CHAIR STEDMAN announced the consideration of SB 55.

SENATOR CATHY GIESSEL, Alaska State Legislature, sponsor of SB 55, read the sponsor statement:

SB 55 modernizes and updates the Alaska Optometry Statute. This bill moves the continuing education (CE) requirements back into regulation, as desired by the Department of Commerce, Community and Economic Development. Continuing education is still required by current statute, but the hours and subjects will be determined by the Board of Optometry, as with other professions. The current regulations require more CE hours than the statute subsection deleted by this bill.

SB 55 allows the board to determine prescribed drug schedules anticipating federal regulations that may change again in the future as they did in 2014; that regulation required another statute change, and this bill would allow the board to move in step with its industry.

This bill updates the optometry definition to reflect current education and training, but specifically prohibits invasive surgery. This allows for future new and improved diagnostic and therapeutic procedures as determined by the board, while not having to return to the legislature for every new technological advance. It also defines that optometrists must be qualified for any procedure that they perform.

SENATOR GIESSEL noted that there are letters in the packet that say the bill would allow optometrists to perform surgery around or on the eye and that is not true. The bill also further defines and clarifies the prohibited surgical procedures under an "invasive surgery" definition. Alaska optometrists already do superficial surgical procedures such as removal of corneal foreign bodies under current statute, but nothing invasive would be allowed.

She said the vast majority of Alaskans visit an optometrist for their health care. Nationally, 75 percent of citizens see an optometrist first. Optometrists refer more complicated issues to

an ophthalmologist. She stated that the bill updates the scope of practice and statutes pertaining to optometry.

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SENATOR STOLTZE asked whether any ocular surgery is non-invasive.

SENATOR GIESSEL reiterated that removing a corneal foreign body is an example.

JANE CONWAY, Staff, Senator Cathy Giessel, presented the sectional analysis of SB 55 on behalf of the sponsor. She read:

Section 1 requires the Board of Examiners in Optometry to adopt regulations governing prescription and use of pharmaceutical agents.

Section 2 amends AS 08.72.181(d) by removing specified hours and period of continuing education requirements for the renewal of an optometrist's license but retains delegation of those requirements to the board in regulation.

Section 3 repeals and reenacts AS 08.72.272(a) to provide that pharmaceutical agents, including controlled substances, may be used by a licensed optometrist if consistent with standards adopted by the board and any limitations on practice under section 5 of the bill.

Section 4 reenacts and modifies the prohibition by a licensee to perform an intravitreal injection.

Section 5 provides that a licensee may perform only services within the licensee's training and experience as provided by board regulation.

Section 6 revises the definition of optometry.

Section 7 adds a definition of "invasive surgery."

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CHAIR STEDMAN asked for the change of the definition in Section 6, line 23, page 2.

MS. CONWAY offered to get back to the committee.

SENATOR STOLTZE asked what the difference is between OD and MD.

SENATOR GIESSEL explained that a doctor of optometry has an extensive degree, but a doctor of ophthalmologist is a medical physician who has had specialized training in surgery of the eye and more complex procedures. An optometrist performs basic eye exams, diagnostic procedures, and some treatment, but not invasive surgery.

CHAIR STEDMAN opened public testimony.

RACHEL REINHARDT, Ophthalmologist, American Academy of Ophthalmology, testified in opposition to SB 55. She explained her concern with how the bill relates to surgery. The language is misleading and would allow optometrists to do all procedures not mentioned in the bill. The bill does not list all surgical procedures needed; there are more procedures not listed, such as laser surgery. The bill removes existing safeguards about injections. She stressed the importance of understanding that the bill creates loopholes. She described the education needed to become an ophthalmologist; four years of medical school and four years of surgical residency. She concluded by recalling testimony from last year about the prescribing of narcotics, which she said would be allowed this year.

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SENATOR GIESSEL asked if Ms. Reinhardt has practiced in Alaska and how many ophthalmologists there are in Alaska.

DR. REINHARDT replied that she has not, and there are 27 ophthalmologists in Alaska.

SENATOR GIESSEL noted there are 179 optometrists in Alaska.

JEFF GONNASON, Optometrist, Alaska Optometric Association, testified in support of SB 55. He shared his professional background. He shared the history of Alaska's optometrist journey and the opposition by the American Academy of Ophthalmology the whole way. He described how optometrists work, their limitations on practice, and that they use their professional judgement as to when to refer patients. He thought there were about 160 optometrists in Alaska.

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SCOTT LIMSTROM, Ophthalmologist, Alaska Academy of Eye Physicians, testified in opposition to SB 55. He maintained that the bill is misleading and allows optometrists to perform many surgical procedures. He provided examples of patients who lost their eyes and the procedures that were needed. He stressed the

importance of those who perform the procedures to be trained. The bill would allow optometrists to perform laser and Lasik procedures. He concluded that the Alaska State Medical Association, the American Academy of Ophthalmology, and the Alaska Academy of Eye Physicians, and the Interior Independent Practice Association are opposed to the bill.

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SENATOR STOLTZE asked if his concern is that medical doctors should also be limited regarding eye procedures.

DR. LIMSTROM said his main point was these procedures require careful analysis of the patient and extensive training.

SENATOR STOLTZE asked if any medical doctor can perform these types of retinal procedures.

DR. LIMSTROM explained that medical doctors limit their practice to their specialties and surgical procedures are highly regulated. He said he is not aware of regulations applying to the procedures done in private offices.

SENATOR STOLTZE asked if there is a legal prohibition to practices by individual hospitals.

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SENATOR GIESSEL said medical statutes do not limit, in general, the practice of physicians to specific specialties. The ophthalmologist was describing hospital privileges and the inappropriate diagnosis was made in an outpatient setting. Physicians are not limited in any way.

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PAUL BARNEY, Chairman, Alaska Board of Examiners in Optometry, testified in support of SB 55. He shared his professional background. He described his role as the director of, and optometrist with, the Pacific Cataract and Laser Institute, a referral center limited to surgical and medical eye care. He said his involvement concerns medical eye care and pre-surgical and post-surgical care. PCLI's approach is to work collaboratively as a team. The ophthalmologist performs the surgery.

He said the arguments against SB 55 are that only an ophthalmologist is trained to do specific procedures, some of which he and the nurse anesthetist at PCLI are qualified to perform. The bill prohibits injections into the eye globe and

prohibits optometrists to do surgery. The bill allows the Board of Examiners in Optometry to set the details of the practice of optometry. He assured that the primary concern of the board is the safety of the public.

He maintained that in the four years he has served on the board, there have been no public complaints that were serious enough for disciplinary action. He concluded that SB 55 would be good for Alaska. It modernizes the definition of optometry and allows the board to determine the details of pharmaceutical prescribing. Optometry provides about 70 percent of eye care in the U.S. In rural Alaska optometrists are sometimes the only provider of eye care.

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JILL MATHESON, Optometrist, testified in support of SB 55. She shared her background and professional experience. She related that the four times there have bills related to optometrists, there has been opposition by ophthalmologists. All four times the legislature listened to optometrists and passed bills that allow them to practice as they currently do. Optometrists treat patients promptly, safely, and effectively. The optometrist profession is a safe profession and the malpractice rate is very low.

She said SB 55 allows the Optometry Board to regulate the profession, puts continuing education requirements back into regulation, and it modernizes definitions of optometry and invasive surgery for optometrists. She opined that the bill would allow the board to update regulations in the future. She concluded that the bill allows the board to react as technology advances and it opens the door for expansion in the future. It allows optometrists to practice at the highest level of training which equals protection of the public because it ensures that optometrists, who are the first line of eye care in Alaska, can treat Alaskans with the most modern methods available to them.

She clarified that the opposition's statement that the bill lowers surgical standards is not true. The Optometry Board is very conservative and would not allow optometrists to do anything without proper training. Optometrists currently have authority to do injections around the eye.

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FORREST MESSERSCHMIDT, Optometrist, testified in support of SB 55. He said he is serving his third year on the State Board of Optometry. He opined that SB 55 puts the regulation of optometry

where it belongs, with the board. He said the profession has changed and more than 50 percent of his practice is medical care. He listed several of the procedures he deals with, such as complex eye diseases, diabetic retinopathy, glaucoma, macular degeneration, and others. These issues involve relationships with ophthalmologists that are based on mutual trust. He described how the care optometrists provide has changed over the years. He provided an example of why the bill is needed. There are not enough skilled ophthalmologists to serve the rapidly aging population. He stated that optometrists will continue to provide quality care and the board is capable of providing oversight. SB 55 is good for Alaska.

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SENATOR GIESSEL inquired how many ophthalmologists are in Juneau.

DR. MESSERSCHMIDT said one.

SENATOR GIESSEL said if that individual goes on vacation there are none.

CHAIR STEDMAN doubted there were any in Sitka.

DR. MESSERSCHMIDT said some ophthalmologists travel through Sitka to provide services.

REPRESENTATIVE KELLY asked if he was confirmed by the legislature to serve on the Board.

DR. MESSERSCHMIDT did not know.

REPRESENTATIVE KELLY requested that the ophthalmologists who oppose the bill submit a list of why the bill is wrong regarding surgical procedures and injections.

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SENATOR STOLTZE requested a list of where the ophthalmologists are located in Alaska. He requested assurance that insurance providers are not opposed to the bill.

CHAIR STEDMAN held SB 55 in committee.

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There being nothing further to come before the committee, Chair Stedman adjourned the Senate Health and Social Services Standing Committee at 2:57 p.m.

