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**From:** Darwin A. Biwer, Jr.  
**Sent:** Tuesday, February 23, 2016  
**To:** Sen. Mia Costello  
**Subject:** SB 165

Mia,

Thank you for hearing SB 165. Attached is a detailed response to any questions about the Title 4 process. A quick summary:

1. A three year process to develop a comprehensive bill is ongoing—everyone has worked very hard to reach compromises.
2. SB 99 and Title 4 is very complex and the wording reflecting our compromises needs to be correct.
3. CHARR invested thousands of hours of our member's time and over \$55,000 in attorney fees to negotiate a deal.
4. SB 165 was developed without consulting CHARR. We offered compromises to no avail.
5. We continue to work toward a comprehensive title 4 bill next year.

#### TITLE 4 PROCESS

##### **Three Year Process:**

Everyone has worked very hard during a three year process to develop concepts for title 4 that would be better for Alaska. A half a dozen committees met once or sometimes twice a month for several years to share concerns and develop consensus. The "Stakeholders" group in most committees was overwhelmingly made up of people from the health and social services, police, city clerks, mental health trust and Rasmussen Foundation personnel. CHARR had challenges with this process because on most committees the industry representatives were outnumbered 13 to 1.

At the end of the three year process a concept document was developed to reflect the desires of the group. CHARR joined with others to accept this compromise document. During this process we were all promised that there would be one bill that reflected the hard fought compromises of the groups.

### **SB 99 Drafting:**

SB 99 a 108 page bill was introduced during the last week of the legislative session last year. The concept document went to three sets of lawyers on its way to the Senate. An initial draft was developed by the Mental Health Trust attorney, then it went to the Department of Law as it was anticipated that this would be a Governors bill, and then it went to legislative legal when it was clear that Senator Micciche would be the sponsor.

As you know, language in statute is difficult and needs to be precise. There were many areas where SB 99 did not reflect the agreements outlined in the concept document and there were many areas where the language needed more work. As a result SB 99 did not move last year.

### **CHARR and Steering Committee Negotiations:**

A group of interested 20-30 CHARR member met 2-4 hours per week for over 6 months to review the 108 page bill paragraph by paragraph. In addition to the talents of the many CHARR members we also retained an attorney to work with us on the review. Our attorney Fred Odsen, from the law firm of Hughes Gorski Seedorf Odsen & Tervooren, helped us with legal language to clarify SB 99's provisions. Obviously, industry members will be the group that has to live with any poor wording which results in crazy interpretations by both regulators and courts. As a result we spent over \$55,000 on attorney fees. Both the amount of time spent by industry members and the amount of legal fees are testament to our efforts to come to the table and earnestly work on the title 4 package.

Our group developed 120 recommendations for changes and clarifications. Due to the length and complexity of the document we forwarded our comments in three parts. First in September, then again in October and the last comments were forwarded the first week of December.

Mr. Odsen met with the attorney from the Mental Health Trust, and the project manager also hired by the Mental Health Trust and the Rasmussen Foundation.

CHARR still has not received feedback on our 120 recommendations. Some 40-50 were accepted as needed improvements. 40-50 of our comments did not receive any response at all. There appears to be a dozen or so issues that will need to be negotiated between CHARR and the Steering Committee. One of those issues is the composition of the ABC Board.

When it became apparent in the middle of December that the wording refinement and negotiations could not be completed before the legislature convened it was decided not to push SB 99 which was the attempt to reflect all of the hard fought compromises of all of the stakeholders.

### **New Push for SB 165 or CS for SB 99**

Out of the blue without consulting with CHARR a CS SB 99 was developed which included two of the top priorities of the Health and Social service community. Those issues were the composition of the ABC Board and Minor Consuming changes. For reasons unknown to us the concepts were submitted in a new bill called SB 165.

This new bill that carves out two issues was not what anyone was promised when we discussed a comprehensive bill in the three year effort. It is always awkward when negotiations are not complete to have one side say give me two of the items we want and we will talk about the rest of the deal next year.

The CHARR committee met to discuss the new development right after we received the proposed language in a working document. Some on the CHARR committee were for opposing a piecemeal approach entirely. However a compromise was offered to the Steering Committee.

CHARR proposed that the minors consuming section should move forward as a single item. We understood the logic and the reasons to try to move this portion forward. If the composition of the ABC Board was dropped we indicated that we would support SB 165 dealing with minor in possession.

Alternatively, if the steering committee wanted to keep both section concerning the ABC Board Composition and the minors consuming we asked for one of our top priorities to be included in the bill as well.

Both offers to compromise were summarily rejected. As a result the CHARR committee decided to oppose the bill as written.

### **Moving Forward to Consensus:**

CHARR is committed to moving forward on a consensus title 4 document which hopefully can be reviewed by the legislature next year. To get there we need both sides to communicate and negotiate for the good of all. We still have not heard back on many issues we raised. I and the entire CHARR committee are hopeful that resolution will be concluded no later than this summer so we can indeed present a united voice for Title 4 changes.

Sincerely

Darwin A. Biwer Jr.

Chairman Alaska CHARR

Owner of Darwin's Theory