

**ALASKA STATE LEGISLATURE  
HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES  
STANDING COMMITTEE**

April 25, 2002

3:03 p.m.

**MEMBERS PRESENT**

Representative Fred Dyson, Chair  
Representative Peggy Wilson, Vice Chair  
Representative John Coghill  
Representative Gary Stevens  
Representative Vic Kohring  
Representative Sharon Cissna  
Representative Reggie Joule

**MEMBERS ABSENT**

All members present

**OTHER LEGISLATORS PRESENT**

Representative Andrew Halcro

**COMMITTEE CALENDAR**

CS FOR SENATE BILL NO. 302(JUD)

"An Act defining the term 'mental health professional' for the purpose of statutes relating to the evaluation of prisoners who may need psychological or psychiatric treatment, for the purpose of statutes relating to the evaluation of children in need of aid and delinquent minors who may need to be confined in a secure residential psychiatric treatment center or who should be released from such a center, for the purpose of statutes requiring certain professionals to report the possibility that a vulnerable adult has been abused or neglected, and for the purpose of statutes relating to mental health civil commitments."

- MOVED HCS CSSB 302(HES) OUT OF COMMITTEE

SENATE BILL NO. 295

"An Act relating to the disclosure of information regarding delinquent minors to certain licensing agencies; and providing for an effective date."

- MOVED SB 295 OUT OF COMMITTEE

HOUSE BILL NO. 522

"An Act relating to medical services under the state Medicaid program."

- MOVED HB 522 OUT OF COMMITTEE

CS FOR SENATE BILL NO. 182(FIN)

"An Act requiring reductions in payments to individuals under certain benefit programs if appropriations are not sufficient to fully fund the statutorily established levels of payments."

- HEARD AND HELD

HOUSE BILL NO. 505

"An Act defining the term 'mental health professional' for the purpose of statutes relating to the evaluation of prisoners who may need psychological or psychiatric treatment, for the purpose of statutes relating to the evaluation of children in need of aid and delinquent minors who may need to be confined in a secure residential psychiatric treatment center or who should be released from such a center, for the purpose of statutes requiring certain professionals to report the possibility that a vulnerable adult has been abused or neglected, and for the purpose of statutes relating to mental health civil commitments."

- SCHEDULED BUT NOT HEARD

**PREVIOUS ACTION**

BILL: SB 302

SHORT TITLE: DEFINITION OF MENTAL HEALTH PROFESSIONAL

SPONSOR(S): SENATOR(S) WILKEN

Jrn-Date	Jrn-Page		Action
02/19/02	2231	(S)	READ THE FIRST TIME - REFERRALS
02/19/02	2231	(S)	HES, JUD
03/04/02		(S)	HES AT 1:30 PM BUTROVICH 205
03/04/02		(S)	Moved SB 302 Out of Committee
03/04/02		(S)	MINUTE(HES)
03/06/02	2384	(S)	HES RPT 4DP 1NR
03/06/02	2384	(S)	DP: GREEN, WILKEN, LEMAN, DAVIS;
03/06/02	2384	(S)	NR: WARD
03/06/02	2384	(S)	FN1: ZERO(HSS)

03/22/02		(S)	JUD AT 1:30 PM BELTZ 211
03/22/02		(S)	-- Meeting Canceled --
04/10/02		(S)	JUD AT 1:30 PM BELTZ 211
04/10/02		(S)	Moved CS(JUD) Out of Committee
04/10/02		(S)	MINUTE(JUD)
04/11/02	2729	(S)	JUD RPT CS 2DP 2NR SAME TITLE
04/11/02	2730	(S)	DP: TAYLOR, COWDERY;
04/11/02	2730	(S)	NR: ELLIS, THERRIault
04/11/02	2730	(S)	FN1: ZERO(HSS)
04/16/02		(S)	RLS AT 10:30 AM FAHRENKAMP 203
04/16/02		(S)	MINUTE(RLS)
04/17/02	2807	(S)	RULES TO CALENDAR 4/17/02
04/17/02	2810	(S)	READ THE SECOND TIME
04/17/02	2810	(S)	JUD CS ADOPTED UNAN CONSENT
04/17/02	2810	(S)	ADVANCED TO THIRD READING UNAN CONSENT
04/17/02	2811	(S)	READ THE THIRD TIME CSSB 302(JUD)
04/17/02	2811	(S)	PASSED Y19 N- E1
04/17/02	2814	(S)	TRANSMITTED TO (H)
04/17/02	2814	(S)	VERSION: CSSB 302(JUD)
04/18/02	2996	(H)	READ THE FIRST TIME - REFERRALS
04/18/02	2996	(H)	HES
04/25/02		(H)	HES AT 3:00 PM CAPITOL 106

BILL: SB 295

SHORT TITLE:LICENSING:DISCLOSURE OF MINORS' RECORDS

SPONSOR(S): SENATOR(S) KELLY

Jrn-Date	Jrn-Page		Action
02/13/02	2183	(S)	READ THE FIRST TIME - REFERRALS
02/13/02	2183	(S)	HES, JUD
03/04/02		(S)	HES AT 1:30 PM BUTROVICH 205
03/04/02		(S)	Moved SB 295 Out of Committee
03/04/02		(S)	MINUTE(HES)
03/06/02	2384	(S)	HES RPT 5DP
03/06/02	2384	(S)	DP: GREEN, WILKEN, LEMAN, DAVIS, WARD
03/06/02	2384	(S)	FN1: ZERO(HSS)
03/22/02		(S)	JUD AT 1:30 PM BELTZ 211
03/22/02		(S)	-- Meeting Canceled --
04/10/02		(S)	JUD AT 1:30 PM BELTZ 211
04/10/02		(S)	Moved Out of Committee

04/10/02		(S)	MINUTE(JUD)
04/11/02	2729	(S)	JUD RPT 5DP
04/11/02	2729	(S)	DP: TAYLOR, COWDERY, ELLIS, THERRIAULT,
04/11/02	2729	(S)	DONLEY
04/11/02	2729	(S)	FN1: ZERO(HSS)
04/16/02		(S)	RLS AT 10:30 AM FAHRENKAMP 203
04/16/02		(S)	MINUTE(RLS)
04/17/02	2807	(S)	RULES TO CALENDAR 4/17/02
04/17/02	2809	(S)	READ THE SECOND TIME
04/17/02	2809	(S)	ADVANCED TO THIRD READING UNAN CONSENT
04/17/02	2809	(S)	READ THE THIRD TIME SB 295
04/17/02	2809	(S)	COSPONSOR(S): HALFORD, LEMAN, COWDERY,
04/17/02	2809	(S)	AUSTERMAN
04/17/02	2810	(S)	PASSED Y19 N- E1
04/17/02	2810	(S)	EFFECTIVE DATE(S) SAME AS PASSAGE
04/17/02	2814	(S)	TRANSMITTED TO (H)
04/17/02	2814	(S)	VERSION: SB 295
04/18/02	2996	(H)	READ THE FIRST TIME - REFERRALS
04/18/02	2996	(H)	HES, JUD
04/25/02		(H)	HES AT 3:00 PM CAPITOL 106

BILL: HB 522

SHORT TITLE: MEDICAID PAYMENTS FOR ABORTION  
SPONSOR(S): HEALTH, EDUCATION & SOCIAL SERVICES

Jrn-Date	Jrn-Page		Action
04/18/02	3006	(H)	READ THE FIRST TIME - REFERRALS
04/18/02	3006	(H)	HES, JUD, FIN
04/23/02		(H)	HES AT 3:00 PM CAPITOL 106
04/23/02		(H)	Heard & Held
04/23/02		(H)	MINUTE(HES)
04/25/02		(H)	HES AT 3:00 PM CAPITOL 106

BILL: SB 182

SHORT TITLE: PRO RATA REDUCTIONS IN BENEFIT PROGRAMS  
SPONSOR(S): FINANCE

Jrn-Date	Jrn-Page		Action
04/09/01	1014	(S)	READ THE FIRST TIME - REFERRALS

04/09/01	1014	(S)	FIN
03/01/02		(S)	FIN AT 9:00 AM SENATE FINANCE 532
03/01/02		(S)	Heard & Held
03/01/02		(S)	MINUTE(FIN)
03/20/02		(S)	FIN AT 9:30 AM SENATE FINANCE 532
03/20/02		(S)	Moved CSSB 182(FIN) Out of Committee
03/22/02	2490	(S)	FIN RPT CS 4DP 3NR SAME TITLE
03/22/02	2490	(S)	DP: DONLEY, GREEN, LEMAN, WARD;
03/22/02	2490	(S)	NR: KELLY, AUSTERMAN, WILKEN
03/27/02	2533	(S)	FN1: INDETERMINATE(GOV/ALL DEPTS)
03/27/02	2533	(S)	FN2: INDETERMINATE(HSS)
03/27/02	2533	(S)	FN3: INDETERMINATE(HSS)
03/27/02	2533	(S)	FN4: INDETERMINATE(HSS)
03/27/02	2533	(S)	FN5: INDETERMINATE(HSS)
03/27/02	2533	(S)	FN6: INDETERMINATE(HSS)
03/27/02	2533	(S)	FN7: INDETERMINATE(HSS)
03/27/02	2533	(S)	FN8: INDETERMINATE(HSS)
03/28/02		(S)	RLS AT 8:30 AM FAHRENKAMP 203
03/28/02		(S)	-- Time Change --
03/28/02		(S)	MINUTE(RLS)
04/02/02	2586	(S)	RULES TO CALENDAR 1OR 4/2/02
04/02/02	2587	(S)	READ THE SECOND TIME
04/02/02	2588	(S)	FIN CS ADOPTED UNAN CONSENT
04/02/02	2588	(S)	ADVANCE TO 3RD READING FLD Y13 N4 E2 A1
04/02/02	2588	(S)	ADVANCED TO THIRD READING 4/3 CALENDAR
04/03/02	2616	(S)	READ THE THIRD TIME CSSB 182(FIN)
04/03/02	2616	(S)	PASSED Y13 N6 E1
04/03/02	2616	(S)	ELLIS NOTICE OF RECONSIDERATION
04/04/02	2635	(S)	RECONSIDERATION NOT TAKEN UP
04/04/02	2636	(S)	TRANSMITTED TO (H)
04/04/02	2636	(S)	VERSION: CSSB 182(FIN)
04/05/02	2813	(H)	READ THE FIRST TIME - REFERRALS
04/05/02	2813	(H)	HES, FIN
04/05/02	2813	(H)	REFERRED TO HES
04/23/02		(H)	HES AT 3:00 PM CAPITOL 106
04/23/02		(H)	Heard & Held
04/23/02		(H)	MINUTE(HES)

04/25/02

(H)

HES AT 3:00 PM CAPITOL 106

**WITNESS REGISTER**

SENATOR GARY WILKEN

Alaska State Legislature  
Capitol Building, Room 514  
Juneau, Alaska 99801

POSITION STATEMENT: Presented SB 302 as sponsor and explained changes in the committee substitute.

ANNE HENRY, Special Projects Coordinator  
Central Office

Division of Mental Health & Developmental Disabilities  
Department of Health & Social Services  
PO Box 110620

Juneau, Alaska 99811-0620

POSITION STATEMENT: Answered questions on SB 302.

STACIE KRALY, Assistant Attorney General

Human Services Section  
Civil Division (Juneau)  
Department of Law

PO Box 110300

Juneau, Alaska 99811-0300

POSITION STATEMENT: Answered questions on SB 302.

WENDY HALL, Staff

to Senator Pete Kelly  
Alaska State Legislature  
Capitol Building, Room 518  
Juneau, Alaska 99801

POSITION STATEMENT: Presented SB 295 on behalf of the sponsor.

ROBERT BUTTCANE, Legislative & Administrative Liaison

Division of Juvenile Justice  
Department of Health & Social Services  
PO Box 110635

Juneau, Alaska 99811-0635

POSITION STATEMENT: Answered questions on SB 295.

JOHN MIDDAUGH, MD, Chief

Epidemiology Section  
Division of Public Health  
Department of Health & Social Services  
PO Box 240249

Anchorage, Alaska 99524-0249

POSITION STATEMENT: Testified against HB 522.

DEATRICH SITCHLER  
520 Glacier Bay Circle  
Anchorage, Alaska 99508

POSITION STATEMENT: Testified against HB 522.

JENNIFER RUDINGER, Executive Director  
Alaska Civil Liberties Union (ACLU)  
PO Box 201844  
Anchorage, Alaska 99520

POSITION STATEMENT: Testified against HB 522.

DR. KATHLEEN TODD  
Obstetrician/Gynecologist  
Valdez Medical Clinic  
PO Box 1829  
Valdez, Alaska 99686

POSITION STATEMENT: Her testimony opposing HB 522 was read via teleconference by Robin Smith.

PAULINE UTTER  
13820 Jarvi Drive  
Anchorage, Alaska 99515

POSITION STATEMENT: Testified against HB 522.

WILLIAM CRAIG  
(No address provided)

POSITION STATEMENT: Commented on HB 522.

CHIP WAGONER  
Alaska Catholic Conference  
3294 Pioneer Avenue  
Juneau, Alaska 99801

POSITION STATEMENT: Testified in support of HB 522.

KATHLEEN STEVENSON  
(No address provided)

POSITION STATEMENT: Testified in support of HB 522.

ANNA FRANK, Executive Director  
Planned Parenthood of Alaska  
9300 Arlene  
Anchorage, Alaska 99515

POSITION STATEMENT: Testified on HB 522.

JASON HOOLEY

(No address provided)

POSITION STATEMENT: Testified in support of HB 522.

**ACTION NARRATIVE**

TAPE 02-37, SIDE A  
Number 0001

CHAIR FRED DYSON called the House Health, Education and Social Services Standing Committee meeting to order at 3:03 p.m. Representatives Dyson, Coghill, Stevens, Kohring, and Cissna were present at the call to order. Representatives Wilson and Joule arrived as the meeting was in progress.

SB 302 - DEFINITION OF MENTAL HEALTH PROFESSIONAL

CHAIR DYSON announced that the first order of business would be CS FOR SENATE BILL NO. 302(JUD), "An Act defining the term 'mental health professional' for the purpose of statutes relating to the evaluation of prisoners who may need psychological or psychiatric treatment, for the purpose of statutes relating to the evaluation of children in need of aid and delinquent minors who may need to be confined in a secure residential psychiatric treatment center or who should be released from such a center, for the purpose of statutes requiring certain professionals to report the possibility that a vulnerable adult has been abused or neglected, and for the purpose of statutes relating to mental health civil commitments."

The committee took an at-ease from 3:05 p.m. to 3:06 p.m.

Number 0052

REPRESENTATIVE WILSON made a motion to adopt the proposed committee substitute (CS) for SB 302, version 22-LS1410\O, Lauterbach, 4/23/02, as a work draft. There being no objection, Version O was before the committee.

SENATOR GARY WILKEN, Alaska State Legislature, sponsor, explained the changes in the CS. The House CS deleted the following: "(C) has submitted an application form and application fee for licensure by a board named in this paragraph;" which in the original bill is page 2, lines 14 and 15.

Number 0127

SENATOR WILKEN read the following sponsor statement:

Committee Substitute for Senate Bill 302 recognizes the growth in the clinical mental health profession and broadens the "mental health professional" definition to include (1) a licensed clinical social worker, (2) a licensed marital and family therapist, and (3) a licensed professional counselor. The current Title [47] definition was written in 1981 prior to passage of Alaska's licensing requirements governing these master level mental health clinicians.

SENATOR WILKEN referred the committee to the handout, Comparison Chart for Mental Health Disciplines covered under SB 302. He explained that the first two columns, Psychologist and Psychiatrist Associate, are current law; the next three columns, the Clinical Social Worker, the Marital and Family Therapist, and Licensed Professional Counselor, are added in SB 302 to do the work of the first two columns. He continued reading the sponsor statement:

A more inclusive mental health professional definition increases the capacity of Alaska's mental health system to protect our youth and adults who are experiencing acute psychiatric crisis in our communities. Today, not enough mental health professionals are authorized under the current definition to respond to some critical public safety situations, particularly in rural Alaska. And yet there are hundreds of licensed professionals who are qualified to aid these Alaskans, but cannot, as they do not fall under the current statutory definition. Senate Bill 302 recognizes this problem and updates the Title 47 definition.

The expanded "mental health professional" definition, as stated in Senate Bill 302, increases the number of trained professionals who will be: 1) Allowed to provide mental health treatment for prisoners; 2) Authorized to evaluate children and minors in custody to determine placement in residential treatment centers; 3) Required to report incidents of harm to vulnerable adults; 4) Allowed to conduct civil commitment evaluations.

SENATOR WILKEN commended the bill to the committee.

Number 0313

REPRESENTATIVE COGHILL asked whether the federal government employees would have to be licensed in the state the same as physicians and psychiatrists.

Number 0350

ANNE HENRY, Special Projects Coordinator, Central Office, Division of Mental Health & Developmental Disabilities, Department of Health & Social Services, came forward to respond to questions. In response to Representative Coghill, Ms. Henry recalled that the bill allows for people who are working under contract with the federal government to not be licensed in the state because they travel around from place to place in the military or something like that.

Number 0378

REPRESENTATIVE COGHILL asked Ms. Henry if those people would be able to do the civil commitments under this law.

MS. HENRY answered that they would be allowed to do that as an emergency services employee in a community mental health center.

REPRESENTATIVE COGHILL wondered if those people would have comparable qualifications or is there reason to believe that there would be people without those qualifications.

MS. HENRY responded that a psychiatrist or medical doctor would qualify.

The committee took an at-ease from 3:12 p.m. to 3:13 p.m.

CHAIR DYSON commented that in addition to qualifying people to provide these other services, a number of insurance companies don't allow third party payments unless the person has a license that is recognized by the State. Some of the folks providing these services will get additional access to third party payers as a result of this action.

MS. HENRY responded that the only licensed profession that is not recognized by insurance companies at this time is the licensed professional counselors. She said her understanding was that they had to go through the legislature to receive parity for that, and this would not be the same thing.

REPRESENTATIVE JOULE moved to report the proposed CS out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE COGHILL said he had another question before he was ready to vote on the bill. He reiterated his question about the qualifications of the federal government employee.

Number 0750

STACIE KRALY, Assistant Attorney General, Human Services Section, Civil Division (Juneau), Department of Law, answered that she understands that the way the legislation is drafted, the federal employee provision only applies to a psychiatrist or a physician, and they would have to have the same licensure requirements as a physician or psychiatrist in the State of Alaska. It would not apply to the additional individuals listed in the statute and the ones this bill would now include.

CHAIR DYSON asked if there was any objection to moving the bill. There being no objection, HCS CSSB 302(HES) was reported out of the House Health, Education and Social Services Standing Committee.

SB 295 - LICENSING:DISCLOSURE OF MINORS' RECORDS

CHAIR DYSON announced that the next order of business would be SENATE BILL NO. 295, "An Act relating to the disclosure of information regarding delinquent minors to certain licensing agencies; and providing for an effective date."

Number 0875

WENDY HALL, Staff to Senator Pete Kelly, Alaska State Legislature, presented the bill on behalf of Senator Kelly, sponsor. She told the committee that SB 295 was introduced as an attempt to help facilitate state licensing agencies to ensure quality care and safety concerns are met for all care facilities and programs within the state. Currently, people age 16 and older have their background researched if they are seeking employment for a care license or with a care provider or are residing in a home with a care provider seeking licensure. However, information for individuals age 16 or younger is not readily released to licensing agencies. That information is only accessible through the Division of Juvenile Justice. Its hands are somewhat tied in the fact it can only release certain

information in certain circumstances to certain licensing agencies. A woman could apply for a day care license to provide care out of her home and could have a 14-year old son living there who is a convicted child molester. The licensing agencies would have no knowledge about this and would give her the license. She said that children and adults could be put in a situation with an offender in the home.

REPRESENTATIVE COGHILL asked if this bill passes, will someone go back and look at people who have licenses now.

MS. HALL answered no.

Number 0995

ROBERT BUTTCANE, Legislative & Administrative Liaison, Division of Juvenile Justice, Department of Health & Social Services, came forward to testify. He expressed support for SB 295. He told the committee that over the years the legislature has enacted a number of licensing bills requiring care licensing authorities to do background checks on people 16 years and older. The current delinquency statute governing delinquency records isn't entirely sufficient to be able to release that information.

MR. BUTTCANE described a situation in which a woman asks for a daycare license in her own family home, and she has a 17-year-old boy who lives in the home. Currently, the statute says that the division can release the delinquency information if the 17-year old is going to be an employee of the woman. Although there may not be a clear intent that the 17-year old is going to be employed by this woman in this daycare business, there is an inferred employee relationship in that if mom runs out to the store, she will leave the 17-year old in charge of the children. Therefore, there is a quasi-employee relationship and thus that information on the 17-year old is provided to the Department of Education & Early Development. This legislation would make it very explicit that the division actually has the authority to provide relevant delinquency information to childcare and adult care licensing entities.

MR. BUTTCANE told the committee that this fixes a problem. He acknowledged there has not been a problem, but he doesn't want to have a situation where information has been withheld from a licensing agency that really is necessary to make an informed decision about the safety of care providers.

Number 1106

REPRESENTATIVE COGHILL referred to page 2, lines 27 to 29 and asked what "another jurisdiction that has the authority" might be.

MR. BUTTCANE replied that sometimes licensing functions are delegated to Native entities or municipalities. While they do not have the ultimate licensing authority, some of the work to gather information on licensing issues is delegated to another entity. This would allow them on behalf of the agency that does have licensing authority to gather that information.

Number 1152

REPRESENTATIVE COGHILL wondered if the same safeguards would be followed as far as access to the information.

MR. BUTTCANE answered, yes, there are specific guidelines on how to use that information and who has access to it. He explained that it is delineated in the policies and practices as to how that information is transmitted and used.

REPRESENTATIVE COGHILL asked about someone losing the license.

MR. BUTTCANE replied that this bill specifically allows the division to give information to the licensing entity, and then it's the licensing entity that makes the decisions about the suitability of the applicant or whether to license the home. There are a number of regulations that guide that as to when a license can be issued or when it should be suspended because of adverse information that's determined. This bill speaks only to the authority that the division has to provide that information to the licensing entity. What the licensing entity does with that information is covered in other sections of the law, he said.

Number 1244

CHAIR DYSON commented that his research says that a disturbing number of perpetrators of sexual assault on children are juveniles, including some who have profound disabilities.

Number 1267

REPRESENTATIVE WILSON moved to report SB 295 out of committee with individual recommendations and the accompanying fiscal

notes. There being no objection, SB 295 was reported out of the House Health, Education and Social Services Standing Committee. The committee took an at-ease from 3:27 p.m. to 3:28 p.m.

HB 522 - MEDICAID PAYMENTS FOR ABORTION

Number 1350

JOHN MIDDAUGH, MD, Chief, Epidemiology Section, Division of Public Health, Department of Health & Social Services, testified via teleconference. He told the committee that he is board certified in internal medicine and preventive medicine and has practiced in Alaska since 1975. He has been the state epidemiologist since 1980. He expressed opposition to HB 522. He gave the following testimony:

My comments are meant to convey concerns from a physician's point of view related to the practice of medicine and the difficulty of applying the legal language being proposed in this legislation within the context of the physician/patient relationship. The practice of medicine has as its basis special duties and relationships between the physician and the patient.

The proposed legislation contains language that is very difficult to interpret within the context of a doctor/patient relationship. The bill does not recognize the necessity for respecting the uniqueness of each patient as a standard for the physician and patient together in consultation based upon the patient's particular circumstances to arrive at the best course of medical treatment.

Number 1400

In the absence of clear understanding of the meaning of the language in the proposed legislation and its interpretation, physicians may have great problems in signing the certifications required by the legislation, not because of any concern over the medical necessity of the procedure, but due to uncertainty over the vagueness of the language. Problems with the proposed language that attempts to restrict the definition of 'medically necessary' involve terms that are not defined, and ultimately would have to be interpreted in order to enforce the

statute. But who would make the decision and based on what?

In the absence of knowledge of the legally and ethically confidential intimate disclosures between a patient and physician, how can a third party without knowledge of the facts determine if the circumstances 'seriously endanger the physical health' or if a 'serious adverse physical condition' would be significantly aggravated.

Number 1456

Because the practice of medicine encompasses a myriad of decisions based upon circumstances of each individual patient, there's a need for judgment in arriving at the decision that a procedure is medically necessary. The qualifying terms proposed in the legislation are not objective and do not reflect the medical standards of practice or interpretation.

Consider one example: Seriously endanger the physical health - consider the horrible circumstances in which a soldier steps on a landmine and loses both legs. Why is it that in one instance a patient ends up with a totally devastated life, becoming dependent upon potent medications and alcohol and requiring long-term institutional care, while in another instance, a person with identical injuries becomes a national leader, an advocate for veterans' rights and health care? Patients are vastly different.

The heart of medical practice is for the physician and patient together to weigh all alternatives, while taking into account the unique circumstances for the patient at the time. Another example is the wording 'psychological illness that requires medication.' But many serious psychological illnesses are not treated with medication. Consider the example of a pregnant woman whose pregnancy precipitates abject despair and causes the woman to become suicidal. Medical treatment would not involve prescription of a medication, but under the proposed legislation, this woman would not be eligible for Medicaid coverage.

There is another serious problem with the proposed language that may provide serious problems for a

physician and applying the legislation to practice, and that's the use of the term 'would' in the bill instead of 'could' or 'might.' It's not a trivial difference, because depending on the legal interpretation of any of these different words, rarely, if ever in medicine, can a physician make a prediction with 100 percent accuracy. Instead, the physician's weighing probabilities and discussing potential benefits and risks with the patient. The standard of 'would' implies a certainty that could almost never be able to be met.

Number 1548

And finally, the bill omits from Medicaid coverage the instances in which a pregnant woman bears an infant with horrible congenital malformations, even if they're known to be incompatible with life. We're currently facing in Alaska widespread outbreak due to a virus (indisc.). It's a known common cause of childhood disease that usually when contracted early in childhood is mild and self-limited. Most adults are immune, but about 30 percent of women in childbearing age remain susceptible. If pregnant women become infected with this virus during a pregnancy, about 10 percent will suffer the loss of the fetus due to fetal hydrops. ...

In conclusion, there is no science or medical evidence-based justification for the proposed legislation. The proposed legislation embodies the rejection of the most basic principles of medical practice and the existing powerful systems that assure accountability for the standards of medical practice. As you value the basic principles of medical practice as an individual, as a legislator, and an eventual patient, as a physician, I'm urging you not to support the legislation.

Number 1613

CHAIR DYSON said the framers of this legislation do not want the state financing abortions simply because the presence of that unborn child is inconvenient to the mother. He wondered how can that innocent life be protected from being disposed of using public funds for capricious reasons.

Number 1656

DR. MIDDAUGH replied that there is a very high standard and high bar for the practice of medicine today. He suggested that if the bill stopped at page 1, line 12, that would be a very important statement by the legislature compatible with the standards of medicine to keep that high bar and to try to mutually achieve those goals.

CHAIR DYSON asked Dr. Middaugh if the Hippocratic oath still says, I will do no abortifacients.

DR. MIDDAUGH answered, yes it does. There's also the Oath of Geneva and numerous standards by physicians, including statements by the American College of Obstetrics & Gynecology related to the very issues being talked about and the standards of the physician/patient duties in this area.

Number 1703

CHAIR DYSON related that the gynecologists he's talked to always say, Boy, when I'm dealing with a pregnant woman, I just realize I have two patients, and I have a responsibility to look after the health of both. He asked if Dr. Middaugh thought that was a commonly held position by gynecologists.

DR. MIDDAUGH replied that he wasn't an obstetrician or gynecologist, but he believes that the practice of medicine involves very serious and weighty deliberations with a patient, taking into account all the circumstances of that instance, and with clinical judgment and the patient's informed consent, arriving at the best medically and therapeutically indicated course of action given those circumstances.

CHAIR DYSON wondered if it would be the best medically indicated course of action for both patients.

DR. MIDDAUGH answered that he thinks the decision obviously related to a pregnant woman involve her informed consent combined with the physician's clinical judgment.

Number 1780

DEATRICH SITCHLER testified via teleconference. She read the following:

I'm here to urge the committee to oppose this bill. I would like to share with you my personal reasons why this bill would be detrimental to many women with similar situations to mine. At a young age, I was diagnosed with hemophilia, a disease affecting the blood. As a result of this condition, it could be medically dangerous for me to carry a pregnancy to term, because the loss of blood during delivery could be potentially fatal to me.

I emphasize the word 'could.' There are cases where women like me have had children successfully. But at a very high risk; a risk that they have determined they want to take. Under this bill, I probably would not qualify for [Medicaid] services. Would I fit under this medically necessary definition? My doctor is not going to say that if I take a pregnancy to term I would seriously endanger my physical health. My doctor would probably say that there is, for example, a 70 percent chance that carrying this pregnancy could seriously endanger my physical health. I should not be denied the right to Medicaid assistance because there is a 30 percent chance that my pregnancy could turn out okay.

No doctor could ever be certain of what would happen if I carried a pregnancy to term. Especially in cases like mine, where the woman has a high chance of a serious endangerment to her physical health, she should be the one to decide whether or not she is willing to take that risk. This bill could force women like me to carry their pregnancy to term and risk their own lives, just because the doctor cannot say for sure that carrying this pregnancy to term would endanger their physical health.

Number 1853

I would also like to remind the committee members that this decision to terminate my pregnancy would, like many other women, be very painful for me, and I would be doing this to potentially save my own life. There are many women out there who will be forced to carry a potentially dangerous pregnancy to term and risk their own life, because they cannot afford to pay for an abortion, and they don't fit into your very limited category of women with medical problems. I don't

think the legislature should be making these life-altering decisions for women just because they are of low income. For these reasons I urge you to oppose this bill as it is drafted.

Number 1880

CHAIR DYSON asked Ms. Sitchler if she believes there should be any restrictions on the public funding of abortions.

MS. SITCHLER answered that she understands why people want to stop women who just feel that they don't want to have the child and have absolutely no reason at all. Her main concern is that this bill is so limited. There are people at risk, and they should be the ones to determine if they're at risk. She said that she doesn't think that's necessarily the case for women who are at absolutely no risk at all.

Number 1919

JENNIFER RUDINGER, Executive Director, Alaska Civil Liberties Union (ACLU), testified via teleconference. She thanked the committee for the opportunity to testify against HB 522. She indicated that Dr. Middaugh has touched on some of the problems in terms of the vagueness of the definition, the unworkability of the wording of things like "seriously, significantly, highly dangerous" as opposed to somewhat dangerous, and the question of who decides what is serious. She stated:

In our estimation, the decision of what is a serious aggravation of a health condition should be determined by the patient who is suffering from whatever that health condition or that adverse risk may be. What is serious to me may not be too great a risk for somebody else to take given our different life circumstances. We generally believe that any medical decision concerning health care belong in the purview of the doctor/patient relationship, and that the government should not be interfering in those decisions and those health care choices.

Number 1985

MS. RUDINGER agreed that the word "would" in this version of the bill is problematic. She reiterated that doctors don't make absolute predictions. Doctors talk in terms of risks, likelihood, and probability and give the patient options. Then

they tell the patient the likelihood of the various options, and then the patient gives informed consent to whatever she decides to do. She agrees that is a good system. The government insisting that only women whose doctors certify that they "would" suffer serious harm if they continue a pregnancy would rule out a lot of poor women who rely on Medicaid for health care.

CHAIR DYSON asked Ms. Rudinger at what point do taxpayers have the right not to participate in something they find repugnant to their conscience.

Number 2106

MS. RUDINGER said she understands that people's consciences may be in conflict with how tax dollars are spent, and that happens in many circumstances. She commented that people pay taxes to the government, elect people who will use the money wisely, and live with the consequences of how the tax dollars are spent. Whether people disagree with defense spending or environmental spending or development of appropriations, that's a consequence of deciding that there will be government funding of anything that comes from tax dollars. She noted that elective procedures are not funded.

Number 2215

CHAIR DYSON agreed that they are trying to define what is elective. He wondered how to go about restricting public funding for abortions that are not medically necessary but only because the presence of the unborn child is inconvenient. He asked if the ACLU has ever weighed in on protecting an unborn child under any circumstances.

MS. RUDINGER answered that she doesn't know. She said the ACLU believes that women have the right to decide whether and when to bear a child. She said the ACLU would come out strongly against any measure that took that right away.

TAPE 02-37, SIDE B  
Number 2270

MS. RUDINGER reiterated that it is a woman's choice to have that child.

CHAIR DYSON asked Ms. Rudinger if the ACLU believes that a woman should be able to terminate the life of a child virtually at any time during the length of the pregnancy.

MS. RUDINGER replied that is not true. She explained that the ACLU agrees with the Supreme Court decision in Roe vs. Wade that as the pregnancy continues, the interest in the state of protecting the fetus grows, the longer that the fetus is in development; so, toward the end of the pregnancy, the state does have a greater interest than in the beginning of the pregnancy.

Number 2217

ROBIN SMITH testified via teleconference. She added her opposition to the bill, but read the following testimony of DR. KATHLEEN TODD, Obstetrician/Gynecologist, Valdez Medical Clinic:

I urge you not to pass HB 522, limiting abortion funding. This bill excludes any consideration of fetal anomalies as a legitimate reason for abortion, which I assure you, are high on many women's list of legitimate reasons for abortion. Should my patient whose fetus has multiple congenital anomalies incompatible with life caused by a known exposure to teratogenic agent be required to carry to term? This bill also requires an impossibly high burden of proof to protect the mother's health. We in medical care are often faced with chances, not certainties. This bill would require certainty before action was taken, thus precluding most actions. Abortion and pregnancy must remain the decision made by individuals who can assess risk and weigh those risks based on their own value systems.

In thinking about abortion funding, we need to keep in mind where fairness lies. Those who argue against spending government money on abortion as something they don't believe in, forget that other people also have deeply held beliefs. It's against my convictions to knowingly carry to term a grossly deformed baby or to try to carry septuplets or to endanger my life for the sake of the fetus. I wouldn't do it, and I wish that state money wasn't spent on these kind of pregnancies. However, I don't think the state should cut off all funding to a woman who doesn't have an abortion in these circumstances. She might believe differently than I do. The government needs to stay

neutral, not allowing anyone to impose abortion on women, including the poor, but likewise not allowing anyone to impose pregnancy on them.

Number 2117

PAULINE UTTER testified via teleconference on behalf of herself. She urged the members to stop HB 522 in this committee. She said she didn't think it was the legislature's business to define "medically necessary abortion;" that is the physician's job based on his/her best judgment. She continued her testimony:

HB 522 is cruel. There is no consideration for severe fetal anomalies; no consideration if a fetus is dead. Why should the legislature force any woman to carry such pregnancies to term? This bill cuts deeply into the doctor/patient relationship; it sets a precedent. Do you really want the legislature making health care decisions for you because you are a person with a low income? Doctors are being cautious. Doctors are using Medicaid funds only when it is medically necessary due to the recent Alaska Supreme Court ruling. They serve financial consequences if an abortion is not medically necessary. I don't think it should be the legislature's job to define what is medically necessary.

MS. UTTER urged the committee to defeat HB 522 and not pass it out of the committee.

Number 2068

REPRESENTATIVE WILSON commented that if the fetus is dead, it would not be considered an abortion.

MS. UTTER indicated that she wasn't sure about that because of a situation she knew about in which a woman was carrying a fetus that was brain dead and had to go out-of-state to get an abortion.

Number 2000

WILLIAM CRAIG made the following comments on medical necessity:

We have individuals in this country who under the guise of medical necessity could have been aborted.

Stephen Hawking cannot take care of himself. We would not have his brilliant mind, on the other hand, following medical necessity. I would disagree a little bit about the necessity of having legislative involvement in medical necessity.

Number 1980

CHIP WAGONER, Alaska Catholic Conference, testified that the conference supports this bill. He suggested that even if this bill was amended with different words mentioned earlier, those people would probably still oppose this bill. The issue is not whether a person has a right to an abortion; the issue is using limited Medicaid funds to pay for those abortions that are not medically necessary. He pointed out that the federal Medicaid funds can only be used for those abortions to protect the life of the mother or for pregnancies resulting from rape or incest. The U.S. Supreme Court upheld the federal Hyde Amendment; it also stated that states need not use their state money to fund therapeutic abortions. In another case it held that states need not use their Medicaid funds to fund non-therapeutic abortions.

Number 1915

MR. WAGONER said that half of the states that have looked at this in their state constitutions have also concluded that states need not fund those abortions that are not medically necessary or even medically necessary. Half the states, including Alaska, New Jersey, Massachusetts, and California, have looked at their constitutions and concluded that the states must fund medically necessary abortions. He acknowledged that no court has said Medicaid dollars must be used to fund elective abortions. When the Alaska Supreme Court ruled last summer, it basically threw out the only regulation that dealt with funding for Medicaid patients. He noted that HB 522 is as close as can be to be broad enough to include medically necessary abortions but narrow enough to not include the elective abortions. He stated that the conference thinks there are elective abortions currently being paid for with Medicaid funds.

CHAIR DYSON asked what the delta would be between the number of abortions being done now opposed to how many would be done if this bill becomes law.

MR. WAGONER replied that he didn't know that for Alaska, but in Maryland, the number of abortions was cut by about 50 percent according to one source. He told the committee that abortion is

the only procedure in Medicaid which can be for medically necessary reasons or for elective reasons. That's why there is a need to try to differentiate by statute and regulation the difference.

Number 1764

KATHLEEN STEVENSON testified via teleconference. She told the committee that she had worked in an office that performed abortions. She scheduled appointments for people and estimated that six out of eight patients scheduled each day were Medicaid patients. She indicated that some of the patients had had one or two abortions in the past year. She said that she doesn't have strong feelings one way or another on the abortion issue, but she said from working there and seeing how many people were abusing this really disturbed her, and that was the reason she left that job. She said she was glad to see this bill try to tighten up some of the loopholes.

Number 1670

CHAIR DYSON asked Ms. Stevenson if she knew how many of the abortions performed at that clinic were medically necessary.

MS. STEVENSON answered that in the year and a half she worked there she could only remember two incidents.

CHAIR DYSON asked if there were any women with medical conditions that would have been dangerous for them.

MS. STEVENSON answered that one of the two incidents she remembered was due to a medical condition. She noted there were two people in the office who scheduled the abortions, so there may have been others.

Number 1566

CHAIR DYSON asked Ms. Stevenson if it was her impression that [performing abortions] was a fairly remunerative business.

MS. STEVENSON said yes, and she highly respected the doctors and the people working there.

Number 1436

REPRESENTATIVE CISSNA asked Ms. Stevenson how she would know the reason for the person's appointment.

MS. STEVENSON replied that the patient would tell her. It wasn't her job to grill these people; her job was to set up the appointment. She summarized that the bill is a good idea to close up the loopholes.

Number 1215

ANNA FRANK, Executive Director, Planned Parenthood of Alaska, responded to the previous testimony and pointed out that it was from someone who is not a doctor. She noted that these are issues that are discussed with a doctor. Before someone can get approval for Medicaid, she has to speak with a doctor and get a medical recommendation for the procedure. It is not something taken lightly by the doctors that Planned Parenthood works with. Planned Parenthood helps coordinate poor women's need for an abortion when it is medically necessary, and this happens at least once a week.

MS. FRANK indicated that the previous testimony also points to the fact that there is a very serious health care problem in Alaska; there is not enough prevention care and money for the poor women to get the prevention they need. For example, a woman on Medicaid can only get one month's supply of birth control pills at a time; whereas, someone with her own insurance can get up to 13 months at a time. So, these women have to go to a pharmacy every single month to get their pills. She emphasized that if they live in rural Alaska, it is very difficult to get to a pharmacy.

MS. FRANK referred to Mr. Wagoner's testimony about more women getting abortions in Alaska - she's not sure that's true - but it's probably because there is a huge access problem in Alaska that needs to be factored into these decisions. With all due respect to Mr. Wagoner, she said she did hear twice today where people that are opposed to this bill are in favor of two compromises. The first was from Dr. Middaugh who said if it ended on page 1, line 12, it would be an okay bill and would send a clear message to doctors to make sure that what they're approving is actually medically necessary. The second was the difference between "would" and "could" or "might." There are instances where something "could" affect the pregnancy or health of a woman, but it is more difficult to determine that it "would." She agreed if that language were changed, it would certainly be better.

Number 1038

CHAIR DYSON asked Ms. Frank if she feels that the doctors who counsel pregnant women try to talk them out of having an abortion if the child and woman are healthy.

MS. FRANK replied that the choice is up to a woman. Doctors would not be doing their job by coercing women, but this bill deals with "medically necessary abortions."

CHAIR DYSON said, so the doctors don't sense that they have two patients that they have to look after; they're only looking after and responding to the needs and desires of the one patient, and there is no voice then for the other patient.

MS. FRANK answered that as Ms. Rudinger pointed out, the later in the viability of the fetus later on in the gestational period, the more the state has a compelling interest in the fetus. Currently in Alaska, she believes that the life and health of a woman is important.

CHAIR DYSON wondered if the life of that unborn child is important enough to have doctors advocating for it when those decisions are being made.

MS. FRANK replied that she didn't know the answer to that question; she is not a doctor.

Number 0845

REPRESENTATIVE CISSNA commented that she has observed that the choice to not have a child usually is a health issue. Ms. Frank agreed with her.

Number 0812

JASON HOOLEY came forward to testify. He informed the committee that although he is Staff to Representative Fred Dyson, he was testifying as a citizen and taxpayer today. He stated:

I find it absolutely disgusting that my money would go to pay for an abortion. I would not object to anyone having an abortion in this discussion, but I would object to using my earned money to do that. I would encourage even stricter restrictions on funding for abortion.

Number 0767

REPRESENTATIVE CISSNA asked Mr. Hooley how he feels about his tax money going for systems that don't take care of kids well when they get taken into foster care or put in children's homes or things like that. They haven't been adequately funded, so children get abused; they lose their ability to love and bond, and they wind up spending their lives in prisons and half-lived lives.

MR. HOOLEY said he doesn't support his tax money going for any system that doesn't do a good job.

Number 0695

REPRESENTATIVE CISSNA told the committee that the Association of Public Administration has a code of ethics that should apply to the legislators. She shared its four main points: 1. Serve the public interest; 2. Respecting the constitution and the law; 3. Demonstrating personal integrity; 4. Striving for professional excellence. She will get copies to the members.

Number 0379

CHAIR DYSON commented that in his reading of history, every human rights issue was unpopular. He concluded with, "Those of us who are wanting to give deference to the life of an unborn child feel that it is a civil rights battle."

Number 0336

REPRESENTATIVE KOHRING moved to report HB 522 out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE JOULE objected.

A roll call vote was taken. Representatives Wilson, Coghill, Kohring, and Dyson voted to report HB 522 out of committee. Representatives Cissna and Joule voted against it. Therefore, HB 522 was reported out of the House Health, Education and Social Services Standing Committee by a vote of 4-2.

SB 182 - PRO RATA REDUCTIONS IN BENEFIT PROGRAMS

Number 0226

CHAIR DYSON referred to CS FOR SENATE BILL NO. 182(FIN), "An Act requiring reductions in payments to individuals under certain benefit programs if appropriations are not sufficient to fully fund the statutorily established levels of payments." He told the committee there wasn't time to craft amendments today, but asked them to look at the proposed amendments to see if there is something helpful to put together. [SB 182 was held over]

#### **ADJOURNMENT**

There being no further business before the committee, the House Health, Education and Social Services Standing Committee meeting was adjourned at 4:38 p.m.