ALASKA STATE LEGISLATURE
SENATE LABOR & COMMERCE COMMITTEE
March 1, 2001
1:35 pm

MEMBERS PRESENT

Senator Randy Phillips, Chair
Senator Loren Leman
Senator John Torgerson

MEMBERS ABSENT

Senator Alan Austerman
Senator Bettye Davis

COMMITTEE CALENDAR

Confirmation Hearings:
Mr. Vince Coan - State Assessment Review Board
Mr. Ronald Otte - Personnel Board

SENATE BILL NO. 6
"An Act relating to required notice of eviction to mobile home park dwellers and tenants before redevelopment of the park."

HEARD AND HELD

CS FOR SENATE BILL NO. 37(JUD)
"An Act relating to collective negotiation by physicians with health benefit plans, to health benefit plan contracts with individual competing physicians, and to the application of state antitrust laws to agreements involving providers and groups of providers affected by collective negotiations."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

SB 6 - No previous action to record.

SB 37 - See Judiciary minutes dated 1/22/01 and 2/21/01.

WITNESS REGISTER

Mr. Tyson Fick
Staff to Senator Johnny Ellis

State Capitol Bldg.
Juneau AK 99811
POSITION STATEMENT: Commented on SB 6.

Ms. Mackenna Johns
Alaska Manufactured Homes
P.O. Box 241592
Anchorage AK 99524
POSITION STATEMENT: Supported SB 6.

Ms. Stephanie Wheeler
Catholic Social Services
3710 E 20th
Anchorage AK 99508
POSITION STATEMENT: Supported SB 6.

MS. Angela Liston, Director
Department of Justice and Peace
Archdiocese of Anchorage
225 Cordova Street
Anchorage AK 99501
POSITION STATEMENT: Supported SB 6.

Mr. Randy Simmons
Property Management
Plaza 36
Fairbanks AK
POSITION STATEMENT: Commented on SB 6.

Senator Pete Kelly
State Capitol Bldg.
Juneau AK 99811
POSITION STATEMENT: Sponsor of SB 37.

Mr. Clyde Sniffen
Department of Law
1031 W 4th, #200
Anchorage AK 99501
POSITION STATEMENT: Opposed SB 37.

Ms. Laura Sarcone
Alaska Nurses Association
Alaska Nurse Practitioner's Association
Alaska Chapter of the American College of Nursing
1444 Hillcrest Dr.
Anchorage AK 99503
POSITION STATEMENT: Opposed SB 37.

Mr. Michael Haugen, Executive Director
Alaska Physicians and Surgeons
4120 Laurel St #206

Anchorage AK 99503
POSITION STATEMENT: Supported SB 37.

Mr. Bob Lohr, Director
Division of Insurance
Department of Community and Economic Development
3601 C Street, Ste. 1324
Anchorage AK 99503
POSITION STATEMENT: Commented on SB 37.

Ms. Nicole Bagby, Account Executive
Aetna Insurance
Seattle WA
206-701-8086
POSITION STATEMENT: Opposed SB 37.

Mr. Mike Wiggins, Vice President
Aetna Insurance
Seattle WA
206-701-8086
POSITION STATEMENT: Opposed SB 37.

ACTION NARRATIVE

TAPE 01-8, SIDE A
Number 001

CHAIRMAN RANDY PHILLIPS called the Senate Labor & Commerce Committee meeting to order at 1:35 pm and announced the confirmation hearing for Mr. Vince Coan, State Assessment Review Board and Mr. Ronald Otte, Personnel Board. There were no questions and he announced they would forward their names to the President of the Senate.

#SB6

SB 6-MOBILE HOME PARK EVICTION NOTICE

CHAIRMAN PHILLIPS announced SB 6 to be up for consideration.

MR. TYSON FICK, Staff to Senator Johnny Ellis, testified that this bill is the result of a task force report done by the United Way and the Archdiocese of Anchorage following the inevitable relocation of residents of the Alaska Village Mobile Home Court. There are currently 41 manufactured home communities in the Anchorage Bowl and SB 6 deals only with manufactured home dwellers and what happens in the event of rezoning and subsequent development of land which is currently used in mobile home courts.

The task force recommended lengthening the amount of time allocated

for relocation from 180 days to 360 days, and no earlier than April 1 and no later than September 30. One-hundred-eighty days notice can be required if the developer pays for the cost of relocating the mobile home, not to exceed $5,000.

MR. FICK explained that the committee substitute changes language in section 2, line 30 from "only 180 days notice is required or the mobile home park owner or operator finds a suitable place to relocate the mobile home" to "only 180 days notice is required if a suitable place is found". The idea is that it takes the responsibility of finding a new location away from the owner, specifically, which addresses some concerns of the development community.

MR. FICK said this bill is supported by a wide range of people from mobile home residents, Catholic Social Services, United Way and Alaska Manufactured Home Residents Advisory Council.

SENATOR DAVIS moved to adopt the committee substitute, version J, to SB 6. There were no objections and it was so ordered.

MS. MACKENNA JOHNS, Alaska Manufactured Homes, supported SB 6. The only the concern they is that the $5,000 cannot be applied to things inside the mobile home. Since the bill was written, they have discovered that the actual costs are averaging around $8,000.

SENATOR LEMAN wanted to clarify that the costs to disconnect, relocate, reskirt and prepare a new site is averaging $8,000.

MS. JOHNS said that was right. She explained when you move a mobile home, you have to bring it up to code. The way the bill is written, moving the home and bringing it up to code are defined together. The disconnection and relocation is one part and the reestablishment depends on your operator. All they usually do is put it on the lot and level it. When you add skirting and insulation, that's an additional cost that's not covered by the mover.

SENATOR LEMAN asked if a new code applied when you moved, like bring the furnace and plumbing up to new standards.

MS. JOHNS replied yes and said those issues are unique to each home. Specific to each home would be blocking, leveling, skirting and insulation and connections, all code issues. A mobile home owner is grand fathered in where he is, but as soon as he moves to a new location, he must bring yourself up to whatever the municipal code is currently. It usually means gas and electrical fittings and can mean some pad work. Lines and other items inside the home are

unique to each home.

SENATOR LEMAN said he didn't realize that equipment inside the home might have to be upgraded, as well as outside the home. He wanted to confirm this.

MR. FICK explained that the $5,000 figure came from the Anchorage Response to Manufactured Housing Community Relocations Task Force Report. It was admittedly an arbitrary number at the time.

SENATOR DAVIS asked if this bill was designed to cover the full costs of moving.

MR. FICK answered yes.

CHAIRMAN PHILLIPS asked Ms. Johns to fax whatever information she had to justify the $8,000.

MS. FICK said she would do that, but she has only one set of receipts from the tenant who moved to Rangeview. She also said that she had a small problem with the April 1 date, because there could be some items that are still frozen in the ground at that time. She thought May 1 would provide adequate time.

Number 2400

MS. STEPHANIE WHEELER, Catholic Social Services Anchorage, said SB 6 addressed some major concerns of residents needing to relocate - adequate notice and financial compensation for relocation costs. A 365-day notice will help residents explore options and finalize a plan for relocation.

MS. ANGELA LISTON, Archdiocese of Anchorage, said she was on the Task Force last year and actually drafted the portion of the report that dealt with this specific provision and she is pleased that the legislature decided to consider it. Her primary concern is that otherwise self-sufficient people may be forced into poverty as a result of these massive displacements. She said the $5,000 was not a result of any study, but it now appears to be to little.

CHAIRMAN PHILLIPS asked if there was any real life experience with this yet. He knew she was handling Alaska Village.

MS. LISTON replied that two people testified at an Assembly meeting two weeks ago that it was nearly $8,000. She has heard no one say they could do it for $5,000. She noted the Ms. Johns just told her that they have six people who have relocated.

CHAIRMAN PHILLIPS asked her to supply the committee with the information.

MR. RANDY SIMMONS, property manager, said they are currently redeveloping Plaza 36 in Anchorage to construct a 10-story, 200,000 sq. ft. office building for one single tenant. They acquired the mobile home park for the site and have very little experience in developing a mobile home park. With the help of United Way, they came up with a process to mitigate tenants moving. They have put the sum of $5,000 for each mobile home into an pool that would be administered by the Catholic Social Services. They did it that way because some homes would cost more than $5,000 and some would cost less. At least one person wanted just six months free rent and they would move themselves. He said there are 43 trailers that have to be moved.

MR. SIMMONS said his company has no objection to this bill. He cautioned that people would wait the 365 days and tenants will get nothing to move. They have committed $5,000 during two different phases, but not for phases three and four. He said it would take a long time working with grants and with HUD. The current bill is a, "fair balance between mobile home park owners and the actual owners of the mobile home."

SENATOR DAVIS asked if the bill could be amended to say the money is placed in a pool so that people could receive their actual costs.

MR. SIMMONS said that would work for them and that's how they set it up in the first place.

SENATOR LEMAN said he thought it was a good idea, but he didn't think they needed to write into the bill that a third party could administer the program, but they need to allow that they could. He also thought there needed to be a minimum number of units in a mobile home park, like 10, that can be pooled.

SENATOR LEMAN moved this as a conceptual amendment. There were no objections and it was so ordered.

CHAIRMAN PHILLIPS asked if anyone objected to changing the dates to May 1 - October 15.

MS. JOHNS said that Catholic Social Services happened to be the lucky party that got chosen the first time out and suggested they use language like "independent agency".

CHAIRMAN PHILLIPS responded that they were only concerned with

pooling the money and the dates at this point. They did not want to specify any agencies.

SENATOR LEMAN said that he wanted an owner to be able to do it himself or work through an independent third party, but the legislature would not specifically say how it should be done.

CHAIRMAN PHILLIPS said they would continue to work on the bill and set it aside till the next meeting.
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#SB37

SB 37-PHYSICIAN NEGOTIATIONS WITH HEALTH INSURE

CHAIRMAN PHILLIPS announced SB 37 to be up for consideration.

SENATOR PETE KELLY, sponsor, said:

> The health care industry nation-wide is changing rather rapidly and so is the health insurance industry. In the last few years, the major health insurance companies in the United States have gone from 18 down to six and as I understand it, the number might be lower than that now. The bottom line is that there are fewer and more powerful insurance companies in the market and as they have become fewer in number, they have gained more and more power and wield much more power in the market place. Unfortunately physicians' position in the market place has not grown. As a matter of fact, it's restricted somewhat by the provisions of the Sherman Clayton Anti-Trust Act, which does not allow them to gather together as a group and negotiate with the large insurance companies.
>
> This was foreseen by the courts many years ago, and they created what is called as State Action Doctrine, which is where a state can have active oversight and allow for the gathering together of groups in the market place to negotiate. And as long as they have that state oversight, they won't be guilty of infringement of the Anti-Trust provisions of the Sherman Clayton Act.
>
> Active oversight will keep the physicians group from forming a monopoly and will give them the needed power they need to negotiate against these smaller in number and greater in power insurance companies that are beginning to have almost monopoly power in the State of Alaska.

> This State Action Doctrine is a federally endorsed and court endorsed provision and is resisted somewhat by the insurance companies because right now they have a lot of power in the market and they want to keep it that way. The State Action Doctrine allows some fairness in the market place so that people can continue to be in business while they go up in negotiations against some of the largest companies in the world.

SENATOR KELLY said the committee would hear that there are huge costs associated with this legislation and that it would change business as we know it in the state. He didn't agree. He reiterated that it has oversight by the State Attorney General's Office and everything in the bill is voluntary and it has a sunset date.

Number 3350

SENATOR LEMAN said he had a letter, dated February 8, from a registered nurse who expressed concern that this could affect her practice.

SENATOR KELLY responded that the last committee amended the bill to address her concerns, although he has been told that they didn't like the language. He has asked them to provide language that is acceptable to them. It is his intent to exempt the nurses.

MR. CLYDE SNIFFEN, Department of Law, said they have concerns about the bill that are addressed in a letter dated February 25. He said that a group of physicians in Fairbanks requested this bill last year when it was drafted as HB 256. The Department of Law has the same concerns now, because the language in the bill hasn't changed any. He elaborated that the State Action Immunity Doctrine requires that if a state wants to clearly specify it intends to replace competition with regulation, it needs to take an active role in not only supervising, but implementing and reviewing that kind of anti-competitive conduct. That would happen through the Regulatory Commission of Alaska that regulates practices of utilities up here. "That process requires submission of utility companies information regarding rates and services. The information is reviewed by the RCA; hearings are held; experts are involved, testimony is provided; there's an appeal procedure. Competition is replaced with regulation."

SB 37 attempts to replace competition with some kind of regulation that doesn't rise to the level of active state involvement that would exempt this type of conduct from the anti-trust laws Mr. Sniffen said. The amount of authority given to the Attorney General under this bill is very limited and a very small amount of information would be provided to him in the beginning to determine if negotiations should be allowed or whether the negotiated

contract is appropriate. Other things in the bill just don't give the state the kind of active involvement the State Action Immunity Doctrine would require before this kind of activity would be exempt from federal anti-trust laws.

They have concerns with the definition of concerted action of boycotts and there is confusion as to what kind of conduct the physicians would be able to engage in if things weren't going their way. He didn't know if the concept of market power in this bill had any connection to what the market power really is in Anchorage or other parts of Alaska.

MR. SNIFFEN said he hadn't seen any information saying these issues were really a problem in Alaska. He thought physicians in rural areas might already have a certain amount of power in negotiating with health care plans. In a large area like Anchorage, there may be specialty groups of physicians, like neurologists or dermatologists, where there just aren't a lot of them and health care plans don't have a lot of choice in dealing with those limited specialties.

In comments from Senator Kelly's office there was a concern that the large insurance companies are already exempt from anti-trust laws and that is why we need to have this balancing of power. But Mr. Sniffen explained that the bill does not address itself to the health insurers; it only addresses health benefit plans. Those are different from health care insurers and it is an important distinction. One insurer may have a large portion of the health care market here in Alaska, but there are many health benefit plans that may or may not be insured by that insurer. To say that health insurers are exempt from anti-trust laws may or may not be true, but health insurers are not the target of this bill; it's health benefit plans.

CHAIRMAN PHILLIPS asked if he had concerns or was he in total opposition to this approach.

TAPE 8, SIDE B

MR. SNIFFEN said it would be difficult to change the bill to satisfy their concerns. It would have to include oversight by a regulatory body such as the RCA or the Division of Insurance with a hearing mechanism.

CHAIRMAN PHILLIPS said he could understand philosophical opposition, but he would like to see alternative language if Mr. Sniffen could do that. He asked if the AG's office looked into the Fairbanks problem.

MR. SNIFFIN answered that they hadn't, but Mr. Lohr could comment on that further.

CHAIRMAN PHILLIPS said that he was farther down on his list and could answer that question when the committee got to him.

MS. LAURA SARCONE, Alaska Nurses Association, the Alaska Nurse Practitioner's Association and the Alaska Chapter of the American College of Nursing, strongly opposed SB 37, which would give broad anti-trust immunity in negotiations between individuals and competing physicians and health benefit plans. She said:

> A lot of physicians believe that the anti-trust laws prevent them from negotiating fair fees with large health plans and insurance companies. Therefore, they support this legislation in order to "level the playing field." Existing anti-trust law, however, already allows physicians to form physician controlled group practices or other joint ventures that enable them to increase their bargaining power and offer their services more efficiently and effectively. Non-physician providers also already have this capability. The real complaints doctors have against the anti-trust laws is it prevents them as competitors from jointly negotiating fees. SB 37 would allow individual competing physicians to jointly negotiate fees that remove competition from the health care field altogether. This can only result in higher prices to consumers and lower quality health care. The immunity proposed in SB 37 is unnecessary. Anti-trust laws already provide a remedy against anti-competitive abuses by health benefit plans in their dealings with health care providers. State and federal laws and initiatives can address the practices of health benefit plans.
>
> Permitting provider cartels will not solve problems; it will only create new ones. This bill would be particularly harmful to advanced nurse practitioners and certified nurse midwives whose expanded role in health care has often been opposed by physicians. The American Medial Association has made it their priority to limit the scope of practice of advanced nurse practitioners, certified nurse midwives, and other non-physician practitioners. Their members have repeatedly sought to restrain the trade of non-physician practitioners and their statements and behavior to this effect are a matter of public record.
>
> The Judiciary Committee adopted an amendment which intends to prohibit physicians from reaching agreements to limit the coverage or reimbursement of services

provided by non-physician providers. With all due respect to members of that committee, I want to state clearly that this amendment would be ineffective in protecting advanced nurse practitioners from continuing efforts by physicians to limit our role in the health care delivery system. We greatly appreciate Judiciary's attempt to protect our interests, however, we do not believe this amendment preserves the vital protection we currently enjoy under existing anti-trust laws. While the amendment suggests that advanced nurse practitioners may retain some anti-trust protection against the most blatant exclusionary practices, it does not insure protection against the more subtle practices that, in fact, pose the greatest risks. The proposed amendment would not prevent physicians from collectively negotiating with health plans for contractual terms that have the effect of placing non-physician providers at a great competitive disadvantage. Consider, for example, contract terms that would require that a physician be present for certain procedures even though advanced nurse practitioners can furnish those procedures independently under state and federal law - or contract terms that impose "quality standards" that forbid or discourage referrals to advanced nurse practitioners - or terms that establish reimbursement rates that are so low for non-physician providers that it is not viable for any of them to participate with health plans as independent providers. Historically, the playing field upon which we, as non-physicians, have sought to compete with physicians has not been a level one and this has been primarily because of physician's dominance of the health care market place. Non-physicians have managed sometimes against all odds to establish a place in that market. We provide consumers with greater access and more choice. Advanced nurse practitioners and certified nurse midwives are health care providers with increased access, improved outcomes, lower costs and increased satisfaction rate. In 1998, over 1,400 Alaskan mothers chose a certified nurse midwife to attend the birth of their babies. That represents 16.7 percent of all vaginal births that occurred in the state that year. Consumers in Alaska want to choose the health care provider who best meets their needs. SB 37 will both limit choice and increase costs.

MR. MICHAEL HAUGEN, Executive Director, Alaska Physicians and Surgeons, supported SB 37. He said:

> SB 37 would allow physicians to get together and negotiate as a group with third party payers provided that the State of Alaska manages the negotiation and provides oversight.

He said that the dramatic consolidation of the health care market has left the state with a few dominant carriers for private health insurance who offer contracts on a "take it or leave it" basis. In his opinion, the negotiation playing field is wildly out of balance. SB 37 would help that balance and might actually increase the access of citizens of the State of Alaska to additional health insurance carriers. He explained that currently anti-trust laws prohibit his members from getting together to discuss fees and non-fee related issues.

> It's very difficult for an out-of-state or small player in this market to establish a foothold. We are geographically isolated from the rest of the country and our population is fairly small relative to the rest of the country. He has talked to other health insurance carriers who would like to do business in the state, but for financial reasons find it very difficult to establish a large panel of doctors in this state. They have to do it one doctor at a time. This bill would allow groups of doctors to get together and actually negotiate one contract with an additional carrier or more than one carrier and assure that carrier that if the contract terms are acceptable, not only to the carrier and doctors, but also to the Attorney General's office, that carrier would instantly have a very large panel of doctors available for their customers. At that point, the carriers are in a position to actively market and spend the money that's required to market a new plan in the state. Currently, they find that almost impossible.

MR. HAUGEN said the fear is that if physicians could negotiate, that would sharply increase fees and force the carriers to pass them on to the subscribers in the form of higher premiums. This is unfounded, as the Attorney General's Office will ultimately approve and oversee the negotiations including the fee schedules. The doctors do not have the final veto power. The bill also includes provisions on page 7, line 25 that allow the Attorney General to adopt regulations necessary to implement this chapter.

MR. HAUGEN said the idea of a State Action Doctrine is a federal policy and is designed to be implemented in some form and since the Attorney General's office is the expert on anti-trust issues, they would also have the responsibility for implementing it. To say this bill would replace competition with regulation is a little inaccurate because in his opinion right now competition between

health insurers and their relative size to a very small doctors practice doesn't exist.

Additionally, on page 5, the parties are required to give the Attorney General's office information on the subject matter of the negotiations and the attendant discussions. It also provides on lines 3 and 13, page 5, that he may disallow the negotiations if they are not satisfied. He said they need to see some guidelines that would satisfy the AG's office.

MR. BOB LOHR, Director, Division of Insurance, said:

> On September 20, 2000 the Alaska Health Care Network (AHN), an association of 86 Fairbanks physicians agreed to settle U.S. Trade Commission charges that the AHN and its members agreed to fix prices dealing with health plans and obstructed the entry of new health plans into Fairbanks. AHN acted as the collective bargaining agent of its physician members orchestrating agreements on prices and other terms. This resulted in higher prices and fewer choices for patients of Fairbanks doctors.

MR. LOHR said that SB 37 would make conduct like that legal. It would not violate federal anti-trust law, if the State Action Doctrine requirements are met. "However, in my opinion and that of the Division, it would be bad public policy or bad medicine. This bill will increase health care costs. The amount of the increase is not known."

MR. LOHR said further that to date not one other state has implemented a law comparable to SB 37.

> Why should Alaska be on the cutting edge of this experiment? All agree that qualifying for the State Action exemption is fraught with peril. You don't know whether a state scheme qualifies for it until after it is challenged in federal court. Even if it does qualify for the exemption, it will increase costs to the Alaska health care consumer. It will increase the costs of insurance coverage and this will quite likely result in reduced availability of coverage, increase numbers of people being thrown into the uninsured pool and possibly reduce health care benefits under existing plans. To the extent that self-insured plans may be covered, and I believe that's doubtful, it could encourage a migration into the self-insured pool.

MR. LOHR continued:

> Our attorneys advise us that self-insured plans are covered by the Employee Retirement and Income Security Act (ERISA) and these plans would thereby be preempted from state law coverage. So whether or not the bill attempts to incorporate them currently, it is the Attorney General's opinion that they would be preempted by federal law.

Number 3000

CHAIRMAN PHILLIPS said he understood the Judiciary Committee put in an exemption for nurses and asked why that was not satisfactory to the Nurses Association. He asked if they had a legal opinion stating that the proposed exemption didn't cover them.

MS. SARCONE responded that language on page 6 says:

> This section does not exempt from the application of the anti-trust laws an agreement or conspiracy that excludes services provided by a provider or a group of providers or that limits the participation or reimbursement of or otherwise limits the scope of services provided by a provider or a group or providers which is [indisc.] to the performance of services that are within the scope of the occupational licenses held by the providers.

CHAIRMAN PHILLIPS said that was her own interpretation of what was said, not a lawyer's.

MS. SARCONE replied it was an interpretation arrived at through discussions with policy people in their national organization in Washington D.C. when they worked on the same bill at the federal level. This amendment is almost verbatim to an amendment that was added and failed to the federal bill.

CHAIRMAN PHILLIPS said that there is a sunset provision of 2006 and asked if she opposed that.

MS. SARCONE answered that she opposed the whole bill.

CHAIRMAN PHILLIPS asked if they had this bill as law for five years, would they not find out what the real costs would be.

MS. SARCONE answered if mechanisms were put in place at the front end of this legislation that would create adequate data to be collected, they would have some answers at the end of five years.

MR. LOHR answered the same question saying he thought they would get a better indication of the costs with a five year trial period, but the question of whether or not to use the Alaska health care

market, which is acknowledged to be a fairly fragile market, difficult to attract to attract new entrants, as a basis for doing the experiment is a good idea. He also cautioned that after five years he wouldn't have exact information. He said in Texas there was only one applicant under a similar law that was passed last year. Staff for the Texas Attorney General's office told him today that they are surprised at the limited number of applications and they attribute that to fear of litigation by physicians. The doctors are not certain this will qualify for the State Action exemption, even though the Texas law provides for far greater discretionary authority by the Attorney General of Texas than the Alaska law provides.

MS. NICOLE BAGBY, Account Executive, Aetna, said Mr. Mike Wiggins, Vice President, Aetna, was with her to testify against SB 37. MS. BAGBY testified that:

> This bill would allow physicians in Alaska to collectively bargain for contractual services and fees with health insurance companies if the market share of the insurer is greater than 50 percent within a geographic area. In testimony before the Senate Judiciary Committee, representatives for the physicians indicated the legislation was primarily aimed at two vendors, Blue Cross and Aetna.

MS. BAGBY explained that,

> Aetna's primary business in Alaska is to act as a third party administrator for close to 100,000 self-insured members including the State of Alaska employees. Aetna also insures only about 10,000 Alaskans through fully insured products. Our first concern is that it's not clear from the bill whether it legally applies to self-insured entities, which are those normally exempted from most forms of insurance regulation by the Employee Retirement and Income Security Act (ERISA). We will assume for the testimony that it does, but it is something we recommend that the committee investigate. The remainder of our business, 10,000 members, is not large enough to be considered as having market power or market share using any reasonable definition.
>
> I would like to point out that this type of legislation has only been adopted in Texas, a state that has far greater degree of managed care than Alaska. The Texan bill is still in its infancy. We urge the committee to carefully review the regulations that were necessary to implement the Texas legislation to get a good idea of the

complexity of the issues, which must be overseen by the Attorney General's office.

The cost to the state will be substantial, if you choose to give physicians this power. Every negotiation must be approved and reviewed by the state to make sure the power is not used to circumvent the public interest. The State of Washington has a far more limited statute, which only allows collective negotiations for non-economic terms. To our knowledge, this is not being used since it's an estimate, which a good indicator that the issue is really about fees.

No other state allows the anti-trust exemption. The chairman of the Federal Trade Commission has testified against this type of legislation. The Division of Insurance and the Department of Law both have significant concerns about SB 37. The practical effect of this legislation will be to increase the cost of health insurance in Alaska. It is already difficult for Aetna to negotiate discounted fees with providers with our large customers due to the relatively small number of medical service providers in Alaska. Where we have been able to negotiate discounts, they are only in the five to 10 percent range. The benefit for providers in these negotiations is a greater number of patients. With collective negotiations allowed by physicians, it is very hard to imagine these would go down rather than up.

Last year we worked with Representative Rokeberg on a Patient's Bill of Rights that partly dealt with contractual issues between insurers and medical service providers. That bill will go into effect this summer. The legislation should go a long ways in resolving problems between physicians and insurers on non-economic terms.

SENATOR LEMAN asked if the opposition to this bill on the federal level was from the previous administration or the new one and if it's the former, has she been able to talk to the current administration to see if they are going to take the same stand.

MR. MIKE WIGGINS, Vice President, Aetna Insurance, answered that it was the prior administration's stance.

SENATOR LEMAN said he thought it would take at least a couple more weeks before they could get a position from the new administration.

MR. WIGGINS agreed.

SENATOR DAVIS said she has a lot of serious concerns and would like to have time to review them. After conversations she had with two specialists in different areas, they wanted to know why the bill was in front of the legislature in the first place. They felt it was something that wasn't needed and there might be a small group of doctors who want it. Implementing something state-wide based on what a few people in a certain area want, in particular doctors who have had litigation, is not a good direction to go.

SENATOR DAVIS said that the State of Alaska who insures their employees would probably have the coverage premiums go up if doctors would go out and negotiate directly.

SENATOR KELLY responded that over the years, he has heard from a number of doctors, including the Alaskan Physician's Association and the American Medical Association testifying in favor of this bill. They are not doing this for a small group of doctors. He said that right now Texas and Washington have legislation like this and a number of other states have legislation pending.

SENATOR DAVIS said she spoke with two doctors, but she has an opportunity to speak with more. Their association said they would not take a stand on this. If they thought it was a good idea, they would be out in numbers to get its passage. She also asked if the state is interested in implementing this, what kind of oversight would the Attorney General actually have? "Not only would they have the oversight, but they would supervise it, review it and do implementation when needed, and how much would it cost us to do it."

SENATOR KELLY responded that the answer was on page 7, line 25 and 26 allowing the AG's office to write regulations for it. He thought the Attorney General's objections were insincere, since they would get to write the regulations that could address all of their concerns.

SENATOR KELLY said, "If people don't want to participate in this, they don’t have to." If doctors even want to discuss this, they are liable to FDC for a lawsuit.

CHAIRMAN PHILLIPS asked Mr. Haugen how the guidelines on line 23 through 26, page 5, would be provided.

MR. HAUGEN replied that the language in the bill was written broadly enough to give discretion on interpretation to the Attorney General.

SENATOR LEMAN said he found the nurses testimony compelling and would like to work with them on it.

SENATOR KELLY asked Ms. Sarcone if the language they inserted

exempting nurses was not acceptable, and if acceptable language to them were found, would they still testify against the bill.

MS. SARCONE responded, "I don’t know what you could do at this point that would "take care" of me, Senator." She was still concerned with oversight, having a public process and having some recourse for nurse practitioners. The exemption protects them from the most blatant exclusionary practices, but there are more subtle practices that are not protected by that clause. She said she could work it language that would be more clear that they could practice and not be excluded.

SENATOR KELLY said that was his intention.

CHAIRMAN PHILLIPS asked the participants to fax their concerns to him and for the Attorney General's office to come up with some solutions and adjourned the meeting at 3:05 pm.
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