

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

May 6, 2003
3:11 p.m.

MEMBERS PRESENT

Representative Peggy Wilson, Chair
Representative Carl Gatto, Vice Chair
Representative John Coghill
Representative Paul Seaton
Representative Kelly Wolf
Representative Sharon Cissna

MEMBERS ABSENT

Representative Mary Kapsner

OTHER LEGISLATORS PRESENT

Representative Beth Kerttula

COMMITTEE CALENDAR

CONFIRMATION HEARING

Professional Teaching Practices Commission

Cynthia Curran - Juneau, Alaska

- CONFIRMATION(S) ADVANCED

HOUSE BILL NO. 108

"An Act relating to establishing a screening, tracking, and intervention program related to the hearing ability of newborns and infants; providing an exemption to licensure as an audiologist for certain persons performing hearing screening tests; relating to insurance coverage for newborn and infant hearing screening; and providing for an effective date."

- MOVED HB 108 OUT OF COMMITTEE

HOUSE BILL NO. 292

"An Act relating to information and services available to pregnant women and other persons; and ensuring informed consent

before an abortion may be performed, except in cases of medical emergency."

- HEARD AND HELD

CONFIRMATION HEARING

University of Alaska, Board of Regents

- SCHEDULED BUT NOT HEARD

PREVIOUS ACTION

BILL: HB 108

SHORT TITLE: SCREENING NEWBORNS FOR HEARING ABILITY

SPONSOR(S): REPRESENTATIVE(S) FOSTER

Jrn-Date	Jrn-Page		Action
02/19/03	0248	(H)	READ THE FIRST TIME - REFERRALS
02/19/03	0248	(H)	HES, FIN
03/10/03	0497	(H)	COSPONSOR(S): GRUENBERG
04/11/03	0946	(H)	COSPONSOR(S): WILSON
05/01/03		(H)	HES AT 3:00 PM CAPITOL 106
05/01/03		(H)	-- Meeting Canceled --
05/06/03		(H)	HES AT 3:00 PM CAPITOL 106

BILL: HB 292

SHORT TITLE: ABORTION: INFORMED CONSENT; INFORMATION

SPONSOR(S): REPRESENTATIVE(S) DAHLSTROM

Jrn-Date	Jrn-Page		Action
04/30/03	1202	(H)	READ THE FIRST TIME - REFERRALS
04/30/03	1202	(H)	HES, JUD
05/06/03		(H)	HES AT 3:00 PM CAPITOL 106

WITNESS REGISTER

CYNTHIA CURRAN, Appointee
to the Professional Teaching Practices Commission
Juneau, Alaska

POSITION STATEMENT: Testified of her willingness to serve on
the Professional Teaching Practices Commission and answered
questions.

PAUL LABOLLE, Staff

to Representative Richard Foster
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 108 on behalf of
Representative Foster, sponsor, and answered questions from the
committee.

SARA GAAR, M.D., Project Director
Alaska Dual Sensory Impairment Services and Special Education
Services
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 108.

PHILLIP HOFSTEADER, M.D., Audiologist
North Sound Regional Hospital
Nome, Alaska

POSITION STATEMENT: Testified in support of HB 108 and answered
questions from the members.

STEPHANIE BIRCH, Children Health Unit Manager
Maternal Child and Family Health Section
Division of Public Health
Department of Health and Social Services
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 108 and answered
questions from the members.

LISA OWENS, Director, Speech Therapist, and Audiologist
Alaska Speech and Hearing Clinic
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 108.

MARTIN BEALS, M.D., Pediatrician
American Academy of Pediatricians
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 108 and answered
questions from the members.

LISA SIMON
Quota International
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 108.

SUSAN WALKER
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 108.

MARY GRISCO, Executive Director
All Alaska Pediatric Partnership
Anchorage, Alaska
POSITION STATEMENT: Testified in support of HB 108.

MARIE LAVIGNE, Executive Director
Alaska Public Health Association
Anchorage, Alaska
POSITION STATEMENT: Testified in support of HB 108.

REPRESENTATIVE NANCY DAHLSTROM
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Testified as sponsor of HB 292.

SENATOR FRED DYSON
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: As sponsor of the companion bill [SB 30] to
HB 292, testified in support of HB 292 and answered questions
from the members.

JASON HOULE, Staff
to Senator Fred Dyson
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Testified in support of HB 292 and
responded to questions from the members.

COLLEEN MURPHY, M.D.
Obstetrician/Gynecologist
Anchorage, Alaska
POSITION STATEMENT: Testified in opposition to HB 292 and
answered questions from the members.

DEBBIE JOSLIN
Delta Junction, Alaska
POSITION STATEMENT: Testified in support of HB 292.

ACTION NARRATIVE

TAPE 03-39, SIDE A
Number 0001

CHAIR PEGGY WILSON called the House Health, Education and Social
Services Standing Committee meeting to order at 3:11 p.m.
Representatives Wilson, Wolf, Seaton, and Cissna were present at

the call to order. Representatives Gatto and Coghill arrived while the meeting was in progress. Representative Kerttula attended the meeting on behalf of Representative Kapsner, who was excused.

CONFIRMATION HEARING

Professional Teaching Practices Commission

CHAIR WILSON announced the first order of business, the confirmation hearing on the appointment of Cynthia Curran to the Professional Teaching Practices Commission.

Number 0074

CYNTHIA CURRAN, Appointee to the Professional Teaching Practices Commission, gave a brief history of her service to Alaska, and answered questions from the committee members. She told the committee that she has been serving on the Professional Teaching Practices Commission since February of 2001. The commission is very important to the people of Alaska and especially important for the students. The commission has done many things including reviewing and providing input on regulations from the Department of Education and Early Development. They have discussed and, unfortunately, had to suspended or revoked certificates of those people who have violated the code of ethics. Through each member's expertise she said she has learned more about the field of education and values what each member brings to it.

Number 0181

REPRESENTATIVE WOLF asked about the commission's activities in terms of suspending teaching certificates for code of ethics violations. He ask what kind of activities warrant that measure.

MS. CURRAN responded that certain infractions rise to a level that requires suspension of a certificate. One example might be violation of contract. The commission hears the case and then decides on appropriate action. Teachers, administrators, and all educators fall under the purview of the Professional Teachers Practices Commission.

REPRESENTATIVE WOLF asked if there is a big problem with these kinds of infractions as compared with other states.

Number 0266

MS. CURRAN responded that she isn't sure because she doesn't have statistics from other states. She said she can speak to the situation in California because, as the Administrator for Education and Teacher Certification, examples of those kinds of infractions cross her desk every day. There are pages of cases from California where teaching certificates have been suspended or revoked. Since Alaska has fewer educators, there are fewer instances where this action must be taken.

Number 0290

CHAIR WILSON commented that Ms. Curran has an impressive resume and it is obvious she is quite capable to sit on the commission.

Number 0321

REPRESENTATIVE SEATON moved to advance the confirmation of Cynthia Curran, Appointee to the Professional Teaching Practices Commission, to the joint session for consideration. There being no objection, the confirmation of Cynthia Curran was advanced.

CHAIR WILSON announced that there was one other appointee scheduled to be heard today, but that individual was traveling and unavailable.

HB 108-SCREENING NEWBORNS FOR HEARING ABILITY

Number 0402

CHAIR WILSON announced that the next order of business would be HOUSE BILL NO. 108, "An Act relating to establishing a screening, tracking, and intervention program related to the hearing ability of newborns and infants; providing an exemption to licensure as an audiologist for certain persons performing hearing screening tests; relating to insurance coverage for newborn and infant hearing screening; and providing for an effective date."

Number 0480

PAUL LABOLLE, Staff to Representative Richard Foster, presented HB 108 on behalf of Representative Foster, sponsor, and answered questions from the committee. He read the following sponsor statement into the record:

With the discovery that a baby's brain develops more rapidly than previously believed, concern for identification of infant-hearing defects has achieved a new prominence.

Over 30 states have passed legislation that provides universal newborn hearing screening. Several other states screen a significant portion of newborns. Approximately 10,000 babies are born in Alaska each year. Out of that number, thirty-to-forty of these newborns are likely to have some type of congenital hearing loss.

Even though many hospitals and clinics, within the state, screen high-risk or premature infants for hearing loss, about 50% of newborns with hearing loss are not identified.

Most newborns with congenital hearing loss who are not identified at birth will not be identified until 18 months or three years of age. By this time certain critical periods for language and cognitive development have passed. When hearing loss is not detected, it can result in lifelong delays in the development of language, and other cognitive skills.

Since hearing loss is more common than any other birth defect and since it has a significant impact on cognitive development, infant screening should be a priority within the state.

This bill would insure that newborns are screened, and that a reporting and tracking system is implemented. The Department of Health & Social Services would have the responsibility to effectively plan, establish, monitor, and evaluate both the screening availability and tracking/reporting system.

REPRESENTATIVE SEATON asked where the funding for the program will come from.

Number 0610

REPRESENTATIVE WOLF said the fiscal note shows the funding sources in FY 04 for \$46,000 comes from general funds. He said he does not see any federal receipts in this fiscal note. He said he believes that the state already has programs like this

set up since his children have all been tested. When his first son was born prematurely, the hospital tested him for hearing impairment.

Number 0626

CHAIR WILSON commented that in Wrangell the hospital has quite a lot of modern technology available, but would not have the equipment to test for hearing impairment for infants. In the case of Wrangell there are only about 12 births per year. It seems likely that the hospital would have to contact the Ketchikan Hospital and request that they send over the device to do the testing. She told the committee it is not a test that is done everywhere, especially in smaller communities.

MR. LABOLLE responded that 90 percent of the hospitals in the state already do infant screening; however, small communities without hospitals are not covered. This bill would provide for those births. This bill sets up a tracking program for those children that are screened so that the state can follow them and assure they receive the necessary treatment.

CHAIR WILSON commented that the first year's funding is only \$46,000.

MR. LABOLLE replied that the reason for the small fiscal note is that there is currently a federal grant. That grant will run out in 2005 and that is why there is a large jump in the fiscal note.

CHAIR WILSON asked Mr. Labolle if he knows how many children would not be screened if this bill does not pass.

MR. LABOLLE replied that Lisa Owens, who is online, could better respond to that questions.

Number 0808

SARA GAAR, M.D., Project Director, Alaska Dual Sensory Impairment Services and Special Education Services, testified in support of HB 108. Dr. Gaar told the committee the service is a state and federally funded project that serves children throughout Alaska from birth to 22 years of age who are both deaf and blind or dual-sensory impaired. This service is located at the Special Education Service Agency in Anchorage. She told the committee she strongly supports the newborn hearing screening, intervention, and tracking program. Permanent

hearing loss occurs three times in every 1,000 births. In Alaska that is about 30 to 40 children a year being born with permanent hearing loss.

DR. GAAR said although the numbers sound low, hearing loss is the most common congenital disorder in the United States. If a child's hearing loss is not detected at birth, it is typically two to three years before the child is identified, as delays in speech and language acquisition become apparent. She said the most significant impact of hearing loss is the delay in language acquisition and academic achievement. These negative impacts occur with children with mild to moderate loss of hearing as well as those with severe and profound range of hearing loss.

DR. GAAR said the average deaf child graduates from high school with a language and academic achievement level of a fourth-grade hearing student. The average hard-of-hearing child graduates from high school with reading scores at the fifth-grade level. These are really unacceptable academic achievement levels, and, sadly, they have not shown any signs of improvement for more than 30 years when the data was first collected.

Number 0936

DR. GAAR pointed out that these delays can be prevented. Research shows that the critical variable in preventing low achievement is early identification of hearing loss and early intervention, which is a critical factor. That is what newborn screening can provide. The most highly regarded study and much research supports the importance of early identification between zero and six months of age. After six months of age there is a significant difference in terms of potential for the child's language acquisition and academic performance later.

DR. GAAR said the cost of newborn screening is only about \$25 to \$35 per child. The cost of not screening or identifying a child's hearing loss early and subsequently providing the appropriate intervention leaves the child with a lifelong language disadvantage. Without early identification, the chances of that child ever catching up linguistically and academically are significantly reduced. This is such a high price to pay for a situation that can be prevented. Newborn screening can identify those babies at less than six months of age. Waiting until two to three years of age is too late. Dr. Gaar urged the committee to pass HB 108.

Number 1025

PHILLIP HOFSTEADER, M.D., Audiologist, North Sound Regional Hospital, testified in support of HB 108 and answered questions from the members. Dr. Hofstader commented that Dr. Gaar really said much of what he wanted to share with the committee. He told the committee that what Dr. Gaar said is entirely true and that there is statistical data to back that up. The 3-out-of-1,000-births figure is actually a little low. There is data that says it is actually 4 or 5 out of 1,000 births that are hearing impaired. This is significant. Language development begins in the first two years of life. Not targeting, diagnosing, or intervening with that hearing loss will create delays. The cost-effectiveness of the program is much more successful if there is early intervention at birth. Doctors Vickie Thompson and Albert Mehl did a study in Colorado that confirmed this fact. The program itself is not only morally significant, but cost-effective.

Number 1109

REPRESENTATIVE WOLF commented that the previous testifier [Dr. Gaar] said the cost of screening is \$25 to \$30 per child. The fiscal note shows about 780 children statewide who need to be screened. He said he understands the importance of screening because he has a son who is a special-needs child who is hearing impaired and his son does have a speech problem.

REPRESENTATIVE WOLF said he doesn't believe \$25 is too much for a family to have pay to have their newborn child screened for hearing loss. It is the cost of having a pizza. He said he would invest that in his child even if he did not have the money. If it was necessary he said he would sell a pint of blood. He also pointed out that there are so many programs nationwide that address these problems. For instance March of Dimes offers assistance. He said he is concerned about having a fiscal note on this bill when the state of Alaska has fiscal problems. He asked when parents are going to assume responsibilities for their children.

Number 1228

MR. LABOLLE responded that one provision of the bill, Section 5, page 3, lines 9-23, mandates insurance coverage that must be provided. Under mandatory insurance minimums provided within the bill, the first screening for newborn infant for hearing loss must be covered by the insurance company and subsequent hearing tests that are necessary would also have to be covered

by insurance. He told the committee his understanding of the fiscal note is that the primary cost involved deals with setting up the tracking system and administering the program itself, and not so much the expense of testing.

CHAIR WILSON said this committee will be looking at the bill with respect to the policy issue. She wants members to focus on whether the state should implement such a program. She said her intent, if the members wish, is to pass the bill out of committee and send it to the House Finance Committee, where the fiscal issues will be addressed.

Number 1296

REPRESENTATIVE SEATON asked if the state tracks children for anything else.

MR. LABOLLE responded that he knows there are other mandatory testing policies, but isn't sure if the state tracks them.

Number 1314

REPRESENTATIVE SEATON said he is a little concerned about this tracking program and isn't sure what that entails. Unless there is a communicable disease, he said, he is fairly sure the state does not track children. Representative Seaton asked if every newborn child is screened and tracked, whether or not he/she has tested positively for a hearing impairment or not. He said if that is the case, he is not comfortable with that.

Number 1380

STEPHANIE BIRCH, Children Health Unit Manager, Maternal Child and Family Health Section, Division of Public Health, Department of Health and Social Services, testified in support of HB 108 and answered questions from the members. She said two of the programs in her section are the newborn hearing screening program and the metabolic screening program. There is a mandated metabolic screening and tracking program for newborns with metabolic disorders. Children are screened for six metabolic disorders, and the division monitors and tracks those kids for follow-up, as well as for a diagnosis for the rest of their lives. It is important to make sure kids with these problems receive medical treatment and have medical homes. It is also important to know the rates at which these occur in the population. As a result of having that information the state and medical providers benefit.

MS. BIRCH, in response to the question about the fiscal note, said part of those funds are for the tracking program and intervention services. The children who are identified would be put into an early intervention program that provides specialized resources for hearing loss. The number of children identified in the zero-to-three age grouping has increased. There may be a need for additional resources. The cost of these services is fixed in most communities, but it tends to be more expensive in the Bush communities. Hospitals have accepted the costs and have rolled them into maternity packages, which include the screening portion for newborns. So the \$25 to \$30 cost is already taken care of either through insurance reimbursement or through rolling the cost into the maternity charges.

Number 1522

REPRESENTATIVE SEATON commented that while there is tracking taking place already for children with metabolic problems, the way he reads this bill it appears all children will be tracked whether they have hearing impairment or not.

MS. BIRCH responded that the newborn metabolic screening program tracks all children; however, there is a more detailed tracking of children identified with metabolic disorders. This program would have screening on record for all children. There may be a large number of children who will fall into high-risk category and may not be identified at birth. A child can develop hearing loss in the first three years of life because of exposure to illnesses while they were in utero, or because medications they may have received puts them at risk of developing hearing loss. The tracking program would track those children through their third birthday.

Number 1590

MR. LABOLLE responded to Representative Seaton's question concerning tracking of all children. He told the committee that only the initial screening is tracked for those found without hearing loss. If, however, the newborn does not fall into that category, then they will not be subject to confirmatory or follow-up testing. Only the initial hearing screening will be sent to the department.

REPRESENTATIVE SEATON commented that as he reads the bill, it appears all newborns are tracked, whether they are shown to have hearing loss or not. He asked Mr. Labolle if he would point out

the section in the bill where it clarifies that only those newborns with hearing loss will be tracked.

MR. LABOLLE responded that every child screened will have his/her screening reported to the department; however, those passing the screening without any signs of hearing disability will not have subsequent screening. Only those children who require subsequent screening are tracked by the department.

Number 1667

CHAIR WILSON referred to page 5, lines 17-22, where it talks about the tracking and prevention program. It says "initial hearing screening, follow-up components, and the use and availability of the system of services for newborns and infants who are deaf and hard of hearing and their families." She said her interpretation of this language indicates that the tracking and intervention will be on the infants who are deaf or hard of hearing and their families.

MS. BIRCH, in response to Representative Seaton, clarified that all newborns would be screened, and those screenings would be reported to the department. The only children that would be followed up through their third birthday are children who fall into a high-risk category or have questionable signs of hearing loss. There is a list of criteria that the department uses to determine which children need to be followed. Currently the department is tracking about 300 children per year.

Number 1773

LISA OWENS, Director, Speech Therapist, and Audiologist, Alaska Speech and Hearing Clinic, testified in support of HB 108. She told the committee she supports the bill because there is a significant difference in language development between children who are identified early and receive early intervention and those that do not. She clarified that when she refers to children who are identified early, she is referring to children who are identified before six months of age. Much research has been done on brain development and studies are showing that critical brain connections are made in the first three years of life. This also includes the hearing sense. If children are deprived of hearing sound for the first few years of life, it doesn't allow their brains to make these important connections. These children may have lifelong problems including auditory processing, language development, academic achievement, and social interaction with peers. Ms. Owens asked the committee to

listen to families who are willing to share their stories. If a child is not identified as hearing impaired by two years of age there are significant gaps that may never be closed. She said it would be a shame to have even one child not be identified at birth. The state has quality services available. There are three to four newborns in every 1,000 who are hearing impaired which makes it the most common condition for newborns. She said she knows that Alaska faces some tough financial times, but the cost of educating these kids will be significant if not detected early.

Number 1951

MARTIN BEALS, M.D., Pediatrician, American Academy of Pediatrics, testified in support of HB 108, and answered questions from the members. Dr. Beals told the committee that the American Academy of Pediatrics has recommended early screening program with follow-up as this bill suggests for several years now. The academy prefers universal screening versus the high-risk screening which was mentioned by one of the representatives [Representative Wolf] who said his son was screened because of his premature birth. He said that the medical community has been doing high risk screening on children for over 20 years. However, half of the hearing impaired children were being missed by only screening high-risk children. This program is an attempt to screen all children because it is difficult to know who is high risk until the screening is done. Once the infants are screened, it is important to get them properly diagnosed if they have a hearing impairment so they can go on and get some of the benefits that Dr. Gaar talked about earlier. If this bill is passed, a mandate from the state would allow the medical community to equalize some of the services throughout the state. Most pediatricians are behind this program and it has been done for years in Anchorage. Almost every birthing hospital will have the capacity to do this program, but without some statewide coordination there will be big peaks and valleys in what kind of follow-up is going to be done. Early diagnosis leads to the intervention that allows these children to be more advanced in their abilities to take on speech language communication. Dr. Beals told the committee he is very concerned about the Health Insurance Portability and Accountability Act (HIPAA) regulations and confidentiality concerns that come up whenever there is information sharing in situations where there is no support by a legislative body that says this is an important thing to follow-up on. A mandate would allow doctors to communicate better with professionals and

hospitals to allow the information to get to the people who need it, basically, the families.

Number 2063

CHAIR WILSON commented that this screening would probably save a lot of money, too.

DR. BEALS said he believes so, but no insurance company will see this as a money-saving device, in itself. However, there is no question that individual families will see benefits, not just monetarily, but emotionally, socially and other ways, as well.

LISA SIMON, Quota International of Fairbanks, testified via teleconference in support of HB 108. She told the committee that Quota International of Fairbanks is a service organization whose main focus is teaching hearing impaired and disadvantaged women and children. Ms. Simon said she supports this bill and would like to see it passed out of committee.

Number 2101

SUSAN WALKER testified in support of HB 108. She told the committee that she is a parent of a deaf child. He just turned four years old and was born in Anchorage. He is a happy, healthy child and was diagnosed with a profound hearing loss at six months of age. The reason that her son's hearing loss was diagnosed so early is that he has a twin sister and it was apparent that he had issues with sound and was developing very differently than his sister. She told the committee he is doing very well. He speaks and his language is on or above average for the hearing impaired due to the fact that his hearing loss was caught at such an early age. She said that she really supports HB 108 because as a parent she knows an individual cannot tell if a child is deaf. If they are healthy and happy, and are always on the move, they look like they are responding normally and it is so difficult to say that the child has a hearing loss. For the most part it is invisible; a parent will not see it. A pediatrician will not see it, either, because it is not something detectable by doing an ear check. It is very important that children are screened at birth.

Number 2157

MS. WALKER told the committee her son is doing well attending school in the Anchorage School District. He is an oral child

and if someone sat down with books with him, they would not realize he has a hearing loss.

Number 2185

MARY GRISCO, Executive Director, All Alaska Pediatric Partnership, testified via teleconference in support of HB 108. She told the committee the partners include the Alaska Native Medical Center, the Alaska Native Regional Hospital, Providence Alaska Medical Center, Fairbanks Memorial Hospital, State of Alaska, Valley Hospital, and Elmendorf Medical Group. The organization has been interested in supporting this kind of legislation for several years. As the members may know, many of the hospitals doing the screening have been frustrated because there is no way of tracking or following up on infants identified with hearing loss. She pointed out that the costs that are avoided later are the educational costs down the road. Most school districts in the state can provide information on what it costs to provide services to a child with hearing loss that has not been identified until they enter school, compared to a child like Ms. Walker's who was identified at an early age and can be in the regular classroom with no classroom support. She urge the committee to pass this legislation.

Number 2244

MARIE LAVIGNE, Executive Director, Alaska Public Health Association, testified via teleconference in support of HB 108. She told the committee the association is interested in developing sound health policies to benefit all Alaskans. Recognizing the importance of universal screening of all newborns is a critical public health intervention. The Alaska Public Health Association encourages the committee to support HB 108. Ms. Lavigne highlighted public health strategies which included the cost savings of early intervention, and urged the committee not to stop with the screening itself because what happens after the screening is important. Families need to receive appropriate information and services following hearing screening and have their children begin receiving intervention at five to six months of age. It is also critical to develop teams that work with the child to measure the impact of early identification of hearing loss, track the gains made, and areas that need development.

Number 2300

MS. LAVIGNE quoted Dr. Marion Downs, a world-renowned pioneer in pediatric audiology, as saying the following:

If a child can be identified at birth and receive immediate intervention, then we have done our job. On the other hand, if we do not detect the hearing loss until the child reaches two years of age or later, that child in most cases has lost the opportunity to catch up with others of her own age. Why, with all the tools we have, would we not seize the time to establish a model for screening and early identification?

MS. LAVIGNE said those are the challenges before the committee today. HB 108 takes an important step in universal hearing screening which would build on the success of the 60 percent of Alaska's hospitals and birthing centers that are already screening newborns. To assure that all newborns are screened and that a tracking system is setup will assure that Alaska's children who are deaf or hearing impaired will receive the early intervention services they need to fulfill their potential.

Number 2333

REPRESENTATIVE WOLF moved to report HB 108 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 108 was reported from the House Health, Education and Social Services Standing Committee.

HB 292-ABORTION: INFORMED CONSENT; INFORMATION

[Contains discussion of SB 30, the companion bill]

Number 2348

CHAIR WILSON announced that the final order of business would be HOUSE BILL NO. 292, "An Act relating to information and services available to pregnant women and other persons; and ensuring informed consent before an abortion may be performed, except in cases of medical emergency."

TAPE 03-39, SIDE B

REPRESENTATIVE NANCY DAHLSTROM, Alaska State Legislature, sponsor, said [HB 292] is the companion to SB 30, both of which ensure that pregnant women have a way to make an informed decision about their health care options.

Number 2351

REPRESENTATIVE DAHLSTROM told the committee that since the 1970s Alaskan physicians who perform or induce abortions have been required by law and regulation to inform patients of the medical implications and the possible emotional and physical consequences of the procedure. HB 292 raises these regulations into statute and standardizes the information presented to the patients by means of a web site that would be maintained by the Department of Health and Social Services. This web site will list accurate, objective information that explains resources available to pregnant women that may assist them in making and implementing their own reproductive decisions. Representative Dahlstrom said she believes this bill will enable women to make healthy, educated choices regarding their own individual and private circumstances.

REPRESENTATIVE DAHLSTROM read from the sectional analysis she'd provided for 292, which stated [original punctuation provided]:

Section 1 language describes the interests and intentions of the Legislature's intervention in this issue. Interests include regulating medical practice, protecting the life and health and choices of pregnant women, and clarifying a physician's requirements to obtain informed consent, which will in turn, conserve legal and judicial resources.

Section 2 directs the Department of Health and Social Services to develop a website designed to assist a pregnant woman with her reproductive choices. This pamphlet will provide resources for women to use in order to make and implement these decisions. The material will include information specific to geographic region, adoption services, counseling, abortion, clinics, medical assistance benefits, requirements for doctors who performs abortions, the father's liability, fetal development, and medical risks or rewards for each procedure option.

Section 3 adds that abortion may not be performed unless informed consent is obtained, as outlined in Section 4.

Section 4 adds civil liability for a person who performs or induces an abortion without meeting the

informed consent provisions. A doctor who prints the website's information and distributes it to the pregnant woman is not liable under this section.

Section 5 states the terms of qualification for consent to an abortion to be informed and voluntary. Medical emergency, as defined in this section, bypasses the informed consent requirements. The pregnant woman or her parent/guardian/etc. will certify the requirements in writing. Voluntary informed means: at least 24 hours before the procedure, in an individual and private and confidential setting, the physician will provide information on the women's individual circumstances including the physician's name, gestational estimation of the pregnancy or how far along the woman is in her pregnancy, and the nature and risks of the procedure and its alternatives, and the availability of the website's information.

Section 6 adds to the current abortion reporting law. In preparing the report, the state registrar must require whether or not the pregnant woman received the website's information.

Section 6 provides severability of this legislation, meaning that it could end.

REPRESENTATIVE DAHLSTROM told the committee that she has had many personal experiences in talking with women who have undergone abortions for various reasons. Some of these conversations took place as recently as a few months ago. Just after this bill was filed a woman came into her office and stated that she had an abortion seven years ago and was still dealing with the consequences both mentally and physically. She told Representative Dahlstrom she had not been informed of these consequences prior to the procedure.

REPRESENTATIVE DAHLSTROM said she has had occasion to talk with women who have been suffering from the consequences of abortion from 30 years ago. These personal discussions with women have not been solicited conversations. She told the committee that these are women who have come to her and talked about their particular situation. From these discussions she feels confident that there are many women who, had they been informed, might have chosen a different route. They might not have, but at least they would have been given that opportunity. She told the committee that HB 292 is extremely important and something

that the legislature needs to consider for the mental and physical health of all women in the state of Alaska.

Number 2186

REPRESENTATIVE WOLF asked Representative Dahlstrom if this bill refers to adult women over the age of 18.

REPRESENTATIVE DAHLSTROM replied that most often it will be adult women, however, she asked the committee to look at Section 5 [page 6, lines 6-8] where it says, "before the abortion, the woman or another person whose consent is required certifies in writing." That language is in the bill to allow for a medical emergency where the female patient involved is mentally incapable of making the decision and that would be the reason for a guardian's involvement. The patient in this case may be any age.

Number 2125

SENATOR FRED DYSON, Alaska State Legislature, sponsor of SB 30, companion bill to HB 292, testified in support of HB 292 and answered questions. Senator Dyson said this legislation only puts into law what is already in regulation. It doesn't change the requirements for medical practitioners to present a full scope of medical information to their clients.

SENATOR DYSON said doctors don't have to use this information; it only provides them with the choice of using the information that the Department of Health and Social Services has provided. It relieves the doctor of some responsibility in that the department will keep all of the information updated. The availability of the information on the web site also relieves the doctor or clinic from having to make the information available in different languages because the department will take care of that, also. If the doctor uses the state provided material, it will mean he/she is immune from being sued for failure to provide adequate material. Thus it gives doctors a choice, makes it easier, and gives physicians some immunity.

Number 2067

SENATOR DYSON asked the members to listen for two or three themes as the committee takes testimony. He said when he started working on the bill he was not very excited about it because he did not think it did very much. However, as he listened to the testimony against the bill [on the Senate side]

he became more excited about it. There is a continual argument from people who oppose the bill to say "do not do anything that raises the awareness that this is a developing human person. " Senator Dyson said it was fascinating to hear people say that he was not being scientific because he did not use the Latin word "fetus" instead of unborn child. Even though it is an exact translation, that theme was heard over and over again. He urged the committee to watch for the testimony that keeps saying this is not an unborn person, just a problem that ought to be treated like any other medical problem.

SENATOR DYSON said the other theme that was heard was the question of singling out this particular medical procedure and pointing out that abortion is perfectly legal. He told the committee informed consent is required on most procedures where the doctor has a responsibility to inform the patient about the procedure.

SENATOR DYSON told the committee another continual theme is that this is the doctor's business and the legislature does not have any business addressing this issue because there is no human rights component.

Number 1984

SENATOR DYSON said those who have reservations about killing developing children because they are unwanted or inconvenient want people to deal with the fact that there is a human rights element here and abortion ought to be treated differently. A baby child or unborn child is not a tumor or a disease, and children ought not to be treated with a disease or tumor theory of medical practice. Senator Dyson said it is his position and, he assumes, Representative Dahlstrom's, that there is something fundamentally different about this one medical procedure that causes - no matter what an individual is going to do - everyone to want to go forward cautiously and thoughtfully with all the information available.

Number 1938

SENATOR DYSON said, like Representative Dahlstrom, he knows adult women who still celebrate the birthday of the child that would have been born. When they walk through the supermarkets and see young people about the age that child would have been, they are still thinking about it. He told the committee he does not want to put more guilt on anyone, but he does want women to

be able to make informed decisions, particularly the profound ones that they must live with.

SENATOR DYSON urged members to watch for arguments that dehumanize the fact that an unborn child is a homo sapien. Some will give the argument that these operations should be treated like any other legal medical procedure and no differently. He said, "you will be told to butt out" if these people think you are interested in this because of a human rights issue. If the members look at the history of the preceding century where ethics were left up to doctors, it has not always been a good practice. Certainly, the experiments done by doctors that went on in Nazi Germany, experiments on allied and Chinese prisoners under the Japanese, and what United States doctors did in the South with sickle cell anemia experiments is right out of Dante's Inferno. He asked the members to forgive his passion, but urged the members to listen for the arguments of ignorance that will likely be heard.

SENATOR DYSON said the Department of Health and Social Services has been very helpful in determining alternative ways to present information. He also wanted the members to know that much of the information in the Legislative Findings [Section 1] came from the Department of Law, which they feel is very defensible.

Number 1866

REPRESENTATIVE CISSNA asked Senator Dyson about his statement that doctors don't have to use the web site. However, the way she reads the bill it sounds a lot like the doctor has heavy liability to prove that the patient has read the web site. She commented that she thought there was language in the bill that required the doctor to read the information him or herself and be familiar with it.

SENATOR DYSON responded that Representative Cissna is correct. According to the bill, doctors must read the information, but have a choice of providing their own information or [using] the web site.

Number 1828

REPRESENTATIVE CISSNA asked if there is a requirement in the bill that doctors must prove that the patient read and understood the web site. She said this is different than the doctor providing his/her own information.

Number 1808

JASON HOULE, Staff to Senator Fred Dyson, responded that physicians already ensure that they received informed consent from their patients for abortions. Doctors normally keep that form in the patients' files.

Number 1790

REPRESENTATIVE CISSNA replied that this bill would make doctors liable if they don't make the consent form available to the court. This bill does raise the liability of the doctor. It does not do anything different except make doctors more liable and make them more accountable on that specific issue, not necessarily the health of the patient, but that their patient has read something.

Number 1768

MR. HOULE replied that the language indicates the doctor is liable if he/she does not speak to the patient of the availability of the web site's information. The doctor is liable to make sure the patient is informed of the other provisions as well. Whether the doctor does that through the web site's information or on his/her own terms or protocol is up to the doctor. The liability, as far as the web site goes, just speaks to providing individuals with the information that it is out there.

Number 1741

REPRESENTATIVE SEATON asked the members to look at [pages 4, lines 27-31, and page 5, lines 1 and 2], where it says that the woman was given a written copy of the material maintained on the Internet under AS 18.05.032 before the abortion was performed or induced. Representative Seaton offered his reading that the bill doesn't give the doctor the ability to inform in any way, other than giving a written copy of the information that is on that Internet web site, before the abortion happens. He asked if he is reading this correctly.

SENATOR DYSON responded that if the doctor does what is required in that section of the bill, then he/she is home free. If the web site information is given to the patient and the doctor has a record in the file, the doctor is free from being sued. He told the committee that his understanding from the Department of Law is that if the doctor gives other information, that is

certainly a good defense. This compliance is an absolute defense if the doctor has a record that he/she provided the state's web site. Senator Dyson said that is Representative Dahlstrom and his intention.

Number 1649

CHAIR WILSON commented that the language is clear where it says "gave to the woman a written copy of the material maintained." All the doctor would have to do is have the patient sign something that says she saw the material and read it. That is pretty typical when a doctor performs any kind of an invasive procedure.

REPRESENTATIVE CISSNA pointed out that it is different. This requirement is not informed consent where the doctor explains things, but rather it specifies that certain information must be read. That is what the bill says.

CHAIR WILSON disagreed and read from [page 4, lines 26-28], "if the person demonstrates by a preponderance of the evidence that the person gave to the woman a written copy of the material."

REPRESENTATIVE CISSNA responded that the material is maintained on the Internet. That is different from saying the patient knows what the dangers of anesthesia are. She reiterated her concern that the bill says a specific thing must be read.

Number 1623

CHAIR WILSON replied that she understands what Representative Cissna is saying, but that isn't what the bill says.

REPRESENTATIVE SEATON added that as he reads the language in the bill, he believes Senator Dyson is correct. He read portions from [page 4, line 23].

Number 1570

REPRESENTATIVE BETH KERTTULA thanked the committee for allowing her to sit in on the meeting in the absence of Representative Kapsner. She asked if this language is a complete bar from civil liability. Representative Kerttula said she is not clear on the language with respect to "considered to comply" [Page 4, line 26]. For example, what if the physician said, "I do not want to give the you [patient] this information, I disagree with this information, in fact, I think it is all a bunch of lies,

but I have to give you this information." Representative Kerttula asked if that is still a complete bar to civil liability. She suggested that needs to be checked.

CHAIR WILSON replied that the question will be followed up in the Judiciary Committee.

Number 1528

MR. HOULE responded to Representative Kerttula's question, by saying that doctors are always welcome to use their own protocols and their own systems of communicating the nature and risks. Physicians are already required to do this by regulation.

REPRESENTATIVE KERTTULA asked if the physician came forward and said, "I have informed them", then would that also be compliance.

CHAIR WILSON replied if the physician had something signed, that would cover him/her. That protects the doctor in that he has done what is required. If he does not get the signature, then that is his/her liability.

Number 1509

REPRESENTATIVE SEATON said he believes it is more than that because on Page 4, line 29, it says that in civil action there is a rebuttable presumption that the abortion was performed without the informed consent if the physician does not have written certification.

CHAIR WILSON agreed that it is the doctor's liability. She told the committee that any hospital or clinic that she knows of requires a signed document saying the patient has been informed and knows what the procedure will be and the possible pros and cons associated with it before a surgeon performs any kind of invasive procedure. This is standard policy.

Number 1437

REPRESENTATIVE CISSNA asked about the new HIPAA requirements. The departments are concerned that it will make it difficult to get specific medical information. Some of this language may be effected by HIPAA. Representative Cissna said that she is concerned that the committee has not looked at the implications

of this act effecting a great deal of legislation. She asked Representative Dahlstrom if she has checked on this.

Number 1385

REPRESENTATIVE DAHLSTROM replied that she cannot respond to that question today, but will look into it.

Number 1367

COLLEEN MURPHY, M.D., Obstetrician/Gynecologist (OB/GYN), testified in opposition to HB 292 and answered questions from the members. She told the committee she has been practicing in Anchorage since 1987, is board certified by the American College of Obstetricians and Gynecologists, is a member of the National Abortion Federation, and an active abortion provider. HB 292 and SB 30 does not add to the care of patients for terminations in this state. She said she believes this bill just provides a series of pieces of information that the patients are already receiving and, in particular, produces obstructions in the provision of this care. Dr. Murphy said that the committee may not already be aware that many of the patients do not have access to these services and by the time they actually get to an abortion provider there has been a delay of several weeks to seek out that care. These patients have had the opportunity to research and think about their decision without necessarily viewing another Internet-based piece of information and graphics, and then another 24-hour wait for a decision that has already been made.

Number 1271

DR. MURPHY told the committee she'd seen a patient today whom she'd told about the legislative hearing this afternoon. She'd explained to the patient that it is the legislature's contention that if she knew more about the resources available to support her to carry the pregnancy to term and adopt it out, she would change her decision. She'd asked her if she would like to see pictures of her embryo so she can see the stage of development of the fetus to help her make the decision. Dr. Murphy said she'd asked her if she would like to wait another 24 hours after this discussion so to better make the decision. Dr. Murphy said that by the time she'd told her all the things that the committee thinks would be value-added, her patient was crying uncontrollably.

Number 1235

DR. MURPHY said any woman who comes for medical terminuses is already quite vulnerable and to put these added layers to this care process is basically an insult not only to the female patient, but also to the provider. She went on to say the legislature is questioning the quality of care that she is currently providing to her patients. As a member of the National Abortion Federation she follows their guidelines. Dr. Murphy pointed out that she pays \$60,000 in medical malpractice each year and the cost is rising by 30 percent per year. She said she is accountable to so many customers that to go ahead and create more statutes is totally unnecessary. This is a blatant attempt to try to reduce access to termination services in the state of Alaska when these services are already seriously compromised. She believes this legislation is totally unfair to her patients and not going to produce any different outcome except delays and higher medical costs. This bill is an effort to satisfying a small group of people who have a personal agenda about their personal beliefs that they should continue to keep personal and not make a state policy of it.

Number 1174

REPRESENTATIVE COGHILL commented that informed consent is already in regulation. He asked Dr. Murphy in what manner she administers that now.

DR. MURPHY replied that when a woman calls her office she usually has already learned she is pregnant through a pregnancy test. Or, oftentimes she goes to a local provider and learns about different options. At that point the patient will learn which providers have termination services and call her office and listen to a termination hotline where there is information on the procedure, costs, and the current wait. If the woman elects to proceed with the termination, she calls back and makes an appointment. She sees me, sign a three-page consent form relating to the termination, the risks, the benefits, and then she comes back to the office where she does a full physical exam and an ultrasound. At the time of the ultrasound Dr. Murphy dates the pregnancy, the patient views the screen and she is sent home with a picture of the pregnancy. Doctor Murphy summarized that the patient gives an informed consent, she signs a piece of paper, she sees the pregnancy, and she goes home very well informed of her decision.

Number 1082

REPRESENTATIVE COGHILL asked if Dr. Murphy would provide the committee with a copy of the three-page informed consent form. In response to Dr. Murphy's positive response, a fax number for the committee was provided.

DR. MURPHY commented that some of the regulations proposed are centered on facilities in which terminations are offered.

REPRESENTATIVE SEATON asked if her facility is in a hospital.

DR. MURPHY responded that it is not. It is in a private office in Anchorage.

REPRESENTATIVE SEATON asked Dr. Murphy if this bill would terminate her ability to perform services.

DR. MURPHY said she is not sure. According to what she has heard the bill was written to say that the facility where a termination is provided would have to be regulated by the state as well as the federal government.

Number 0984

REPRESENTATIVE SEATON pointed to Page 4, line 9 where it requires that abortion can only be performed in a hospital or other facility approved for that purpose by the Department of Health and Social Services or a hospital operated by the federal government or an agency of the federal government.

DR. MURPHY commented that she worked for the federal government from 1987 to 1999. The federal government's policy does not allow terminations of pregnancies unless it is incest, rape, or the mother's life is in jeopardy. Currently, termination of pregnancies cannot be performed at the Alaska Regional Hospital and generally not at Providence Alaska Medical Center, either. By putting that language into the bill it is eliminating access to termination of pregnancy in Alaska.

Number 0927

MR. HOULE pointed out that the section of bill Dr. Murphy is referring to is already current law.

DR. MURPHY responded then that there are people breaking the law because it is being offered safely in an outpatient setting. It has been forced to that setting because hospitals will not provide it.

Number 0892

REPRESENTATIVE COGHILL questioned if the licensing procedure is the method by which the Department of Health and Social Services is a part of the clinic. He said he will look into it further.

REPRESENTATIVE CISSNA asked Dr. Murphy if she believes reduction of access to abortions would be unconstitutional because it is legal in Alaska and throughout the country. She asked Dr. Murphy to review the process of examination provided to her patients, the three-page consent form, and what she sends home with the patients. Representative Cissna also asked her to comment on the constitutionality question.

DR. MURPHY responded that she is aware of the Roe v. Wade decision in 1973 in which termination of pregnancy was allowed in the United States under certain conditions. Under Alaska's constitution, there are even greater rights to privacy, and Alaska was actually able to give termination of pregnancies before 1973. Some decisions have been made by the Supreme Court; there cannot be distinctions between two sets of pregnant patients who want to continue their care in pregnancy and those who want to discontinue their pregnancy and stop being pregnant. That constitutionality has already been challenged.

DR. MURPHY explained that she does a physical examination and dates the pregnancy by the last menstrual period, and then also correlates it with an ultrasound in which the size of the pregnancy is consistent with the last menstrual period and physical examination. Oftentimes, the outcome is very different. Then she takes a pictures to document the size of the pregnancy and will offer and usually sends a picture home with the patient. She said 95 percent of the patients will take home a picture of the pregnancy.

Number 0729

REPRESENTATIVE SEATON asked if the abortion is performed the day of the exam. He asked because of her comment that she sends the photograph home with the patient.

Number 0711

DR. MURPHY said usually the patient will call for an appointment and often patients have to wait several days, and sometimes weeks due to scheduling issues. Depending upon the pregnancy,

it will either be a same-day procedure versus a two-day procedure. Two-day procedures are basically for women who have a cervix that is very firm and may require softening either by laminaria, which are little heat sponges that expand the cervix, or tablets that are put inside the vagina to help soften the cervix, but that is generally reserved for people who are in advance gestation, after 12 weeks of pregnancy. The majority of women can have surgical termination performed that same day.

Number 0644

DR. MURPHY alerted the committee that medical abortions are increasingly done up to nine weeks of pregnancy. A doctor gives the patient a pill called RU 486 or mifepristone, which is an antiprogesterin that the patient takes orally. Two days later, she will put four tablets high in her vagina, which will cause her cervix to further soften and the uterus to contract. After that, she will expel the dead tissue. Depending upon where the patient is located in the country, this is a growing option because of privacy concerns that are being discussed today. Dr. Murphy said this is a very safe option; 98 percent of the women will pass the tissue at home without needing a dilatation and curettage (D and C) in subsequent weeks. It will be very difficult to regulate everyone's home for the self-administration of voluntary termination of pregnancy.

Number 0594

CHAIR WILSON asked what kind of follow-up takes place to make sure there does not have to be a D and C performed.

DR. MURPHY replied that every patient has a reappointment for a variety of reasons. She wants to make sure they have healed well, to talk about how they are making the adjustment, and, most importantly, to ensure that they have transitioned to an effective form of contraception. Every patient, whether surgical or medical, will get a follow-up visit. Patients will generally come back between one to three weeks after the surgical or medical termination. Another physical exam is done where there may be another ultrasound, particularly with a medical termination, to make sure the pregnancy sac has passed.

Number 0541

CHAIR WILSON commented that she knows through personal experience working in a hospital and clinic that people often do not come back for follow-up appointments. She questioned how it

is ensured that follow-up appointments are kept and that everything is okay.

Number 0511

DR. MURPHY responded that in the case of a surgical termination of pregnancy the doctor will go ahead and inspect the contents. The doctor will go in with a light and look to make sure the appropriate tissue is there. Depending upon how far the pregnancy is, there may be just a little tiny bubble. Generally after nine or ten weeks of pregnancy there will start to be signs of fetal parts, and further on in pregnancy there will be parts of the fetus. The doctor will reconstruct the fetus to make sure it was taken out intact. Usually, after surgical termination of pregnancy, the doctor will confirm the complete evacuation immediately after procedure, and the patient knows that it has been completely performed. In the case of a medical abortion, however, the doctor does not get to inspect the tissue at home, so generally the patient comes back and a physical exam is done to make sure the uterus has shrunk and sometimes an ultrasounds is done as backup to make sure the uterus expelled the tissue. The doctor always confirms it.

Number 0387

DR. MURPHY addressed the compliance issue by saying that these issues are very much related to access to care. When so many patients have to travel again for their follow-up, many do not come back to the original site. So patients that travel usually have their medical records sent back to the community where they live and she suggests that they get follow-up care locally. These women always go home with an effective contraceptive plan including emergency contraception with backup birth control. Some of these services can be provided locally in terms of their follow-up care. A lot of doctors do not offer medical abortion because of the lack of tissue confirmation to people who do not live on the road system. She said she has had some patients who have elected to stay in town for the 48 hours period and then return the following day to get the ultrasound to make sure it passed and then go home within three or four days after the procedure has been started. Compliance really has to do with a lot of different factors. In her practice that is not an issue because most patients are very motivated to make sure this process is completed and that they transition to effective forms of family planning.

Number 0339

CHAIR WILSON asked what her policy is when there is no follow-up.

DR. MURPHY replied that her no-show rate is relatively low. Like any appointment, her office calls the patient to find out why they did not show up. A letter may also be sent to the patient. Depending on the severity of the patient's condition it may be necessary to chase the her down until she comes into the office. In the case of a medical abortion the Cytotec tablets which help to evacuate the uterus are very rarely associated with facial deformities. They occur in about one in one million, but the medical abortion is considered a teratogen and it is important for the pregnancy to pass. She said her office chases those women down to make sure it has been completed. The only patient she has not been able to get back in to see her is a police officer.

Number 0227

REPRESENTATIVE DAHLSTROM thanked Dr. Murphy for calling today. She said that she has read many articles about Dr. Murphy over the years and knows that her patients go wherever she goes. Representative Dahlstrom said she truly believes that Dr. Murphy is passionate about providing what she [Dr. Murphy] considers good health care and wants her to know that she respects that. She said that she is glad the Roe v. Wade decision was brought up because she believes that it is important to state for the record that this legislation in no way is debating what has been set as the law of the land. Roe v. Wade is done, and until the day may or may not come that someone chooses to debate that, that is the law.

Number 0110

REPRESENTATIVE DAHLSTROM said she is confident that Dr. Murphy does give information to her patients, but it is very interesting to her that the women she has spoken with and the women she has personal relationships with have told her in no uncertain terms that they were not given information. There are many practicing physicians who are not as thorough as others. There are many that have the opinion that if it is not talked about, the procedure will make the problem go away. Representative Dahlstrom reiterated her personal experience with women who have found that, oftentimes, this technique worked for a short period of time, then there are others who have shelved it for 20 or 30 years, and then it has come out. In all of

these cases, they have had to deal with it and there have been serious consequences.

Number 0072

REPRESENTATIVE DAHLSTROM said she doesn't believe asking anyone to consider or reconsider a health decision is abusive to the patient. She said she understands and respects that physicians are often placed in very sensitive situations. Physicians receive extensive training on how to deal with these situations. She said while she hasn't met Dr. Murphy, she knows her reputation and that her patients follow her wherever she goes, so her rapport with them must be excellent.

TAPE 03-40, SIDE A

Number 0019

REPRESENTATIVE DAHLSTROM said she believes Dr. Murphy deals with these sensitive situations very carefully and cautiously and that when patients leave her office they don't feel abused by the information she has shared with them. However, she expressed concern that the child is referred to as a state or condition, not a living person.

Number 0133

DR. MURPHY explained that doctors are increasingly aware that they must make decisions on evidence-based medicine in which controlled prospective and randomized trials are performed and those are the best kind. There are different types of scientific studies that can be drawn that are not quite as reliable. In hearing of some of the patients that have approached Representative Dahlstrom regarding their personal decisions and adjustments, she told the committee a researcher would say it is selection bias in which you are seeing a subsection of a population that is selected out by virtue of their dissatisfaction with their decision and their adjustment to it.

DR. MURPHY suggested that Representative Dahlstrom is seeing a skewed sampling of that population. This is classic selection biased for what is heard. Generally, no one hears from happy people, only from dissatisfied people. She said as a medical doctor she is trained to use medical terms and trained to call a pregnancy an embryo up to eight weeks in pregnancy, then a fetus thereafter, and it is called a neonate when it is born. Doctors don't use other terminology. The reason she uses the words

"pregnancy, state, or condition" is because termination of pregnancy can be offered across those weeks of gestation and, therefore, she specifies embryo and fetus.

Number 0242

REPRESENTATIVE GATTO commented that Dr. Murphy has used the term "selection bias" when referring to Representative Dahlstrom's experience. He said he would like to look at that from a different viewpoint. Since Dr. Murphy has given informed consent to patients who have elected to go through with an abortion, he asked about the patients who return to her office with regrets. Is there some answer for these individuals, for instance, that she gave them everything they needed to know? Do patients ever come back and say she didn't give them all the information? It was treated as an object or a termination of pregnancy and a lot of terms that make the issue fairly innocuous by saying "taking care of the patient's condition," rather than "kill your baby." He asked Dr. Murphy if she has ever used the term "your baby" and suggested that she has a selection bias by not using the term.

Number 0320

DR. MURPHY responded that she just did a postpartum examination of a patient and she had her baby with her. The baby cried while I held it and she did her depression questionnaire. A baby is a living human being outside of the body. She does not refer to a fetus or an embryo as a baby. These are adult women who have the right to vote and hopefully elect to use it; they can drink alcohol; they can serve in the United States Armed Forces; and they know what they want to do.

Number 0391

DR. MURPHY said she believes that Representative Gatto is underestimating the intelligence of women and what they know about their bodies, how they function, and how they grow pregnancies. She said that she appreciates everyone's viewpoints and said that they are good viewpoints that work in people's personal lives. Dr. Murphy told the committee she does not believe it is appropriate to make this a public policy based on some people's personal belief systems which would limit the choice for people to exercise their choice as they see fit for their own lives. Many women are psychologically impacted, they have physical conditions, they cannot afford it, or their partner is abusive. Dr. Murphy said with respect to concerns

with people coming back with regrets, she can only recall one patient in 18 months of private practice in providing termination of pregnancy. That young woman said she regretted terminating the pregnancy. She was a victim of a date rape in which a young man lured her to a local hotel and she had a date rape pregnancy and elected to terminate it. She now has a new partner of six months duration, and she has not been able to conceive, and she is concerned that it may be related to her termination of pregnancy. Her periods have changed because she has gained 50 pounds and that interferes with ovulation. She told the committee she has not seen women have the degree of regret that has been described in this testimony. Most women feel relieved because they can access this care and do what they need to do in their life and continue their lives in a healthy manner.

Number 0480

REPRESENTATIVE GATTO told Dr. Murphy that she is underestimating his intelligence when she makes a statement that he underestimates the intelligence of women. Because that is a statement she has made without any information or data. That leads me to have concerns and the concerns go right to a selection bias. He said he believes she has a selection bias when using the terms "termination of pregnancy" so often and rarely using the term "abortion". He asked if there is some selection bias that she is trying to influence on individuals. Representative Gatto pointed out that she may not see people who have regrets because they do not want to go back to the person who caused them, so they take their regrets to someone else. Probably, to some kind of agency that deals with depression because conceivably these women will be experience depression for the rest of their lives, or certainly for a while. He said that Dr. Murphy is not seeing those people, so when she says she only has had one patient return to her with regrets, he said he believes she is trying to imply that that is all that exists. He told Dr. Murphy that she knows and he knows that that is not true. He said he believes she is using the exact same selection bias when formulating the information that is presented in the form.

Number 0582

DR. MURPHY told the committee that she subscribes to a number of journals, member of the National Abortion Federation, and she reads many things related to reproductive health so she draws the information she provides partly from personal experience, as

well as the data she reads from these national and international medical reviews. She said she also sees women when they are not getting pregnancies terminated. She said she sees them for OB/GYN care, when they are infertile, when they are postmenopausal, and she does routine pap smears.

DR. MURPHY said she asks her patients about their OB/GYN history and gets a lot of stories about how women have gone through their lives, pregnancies, miscarriages, and terminating pregnancies, and has discussed each one of those events. Dr. Murphy said that she has over 1,500 women seeking services with her and she knows their detailed reproductive history and has asked them questions about each and every one of their pregnancies. She said her sample size is much larger than her termination population.

DR. MURPHY emphasized that 43 percent of women will have a termination of pregnancy by age 40. The incidence of posttraumatic stress disorder for termination of pregnancy by no means approximates 43 percent of the population. She said she does take a detailed history of her patients, learns about their abortions many years after the fact.

DR. MURPHY told the committee that it is a rarity to hear of posttraumatic stress disorders. What she hears is relief. She hears a decision that they made many years ago that they can live with today because they are here today. She told the committee she doesn't judge patients, but just takes care of them. She said all people have personal viewpoints on how to conduct their lives. They get unconditional health care and services. This is so private, and it should stay private.

Number 0770

REPRESENTATIVE SEATON asked Dr. Murphy how her practice will be affected by the section of the bill that requires a 24-hour delay before an abortion can be performed.

Number 0799

DR. MURPHY responded that if she has to make an appointment for the following day, that will be one more appointment, and another patient cannot see her. She said she has to charge that patient for her time because she pays \$3,800 in rent and \$60,000 in malpractice insurance. Dr. Murphy said she will have to charge the patient again for what she could have done the day before. It will drive up the cost of care, it will cause

unnecessary delay, and she won't be able to see other patients for contraception.

Number 0881

DEBBIE JOSLIN testified via teleconference in support of HB 292. She told the committee that this bill is very important to her because in 1999 she and her husband were expecting their fourth child and found out at approximately 22 weeks of gestation that their little boy had multiple anomalies. Ms. Joslin and her husband named him Isaiah. He had a brain cyst, possibly a missing or unconnected stomach, a heart defect, and other health problems.

MS. JOSLIN said these health problems were discovered through a routine ultrasound in Fairbanks. After this discovery, she was told to talk to a specialist in Anchorage. She made an appointment; this specialist told her over the phone that she should have an abortion, without even examining her or reviewing any of her medical records. The doctor's recommendation was based on a conversation with her where she related some of things that had been told to her when she had an ultrasound. Of course, the term "abortion" was never used; rather, it was always "termination of pregnancy." The reasons she was told she should have an abortion were that it would be too expensive, too difficult on her family, and life-endangering, which could possibly leave her other children motherless.

Number 0990

MS. JOSLIN said she found out through her own research that her life was in no danger. She said she was also told after she had tests and met with the doctor that their son had a very serious chromosomal abnormality which always resulted in death. Ms. Joslin found out later from information that the doctor had in her office that most do die, but not all die. It is very different to find out that 90 percent compared with 100 percent die. After she'd turned down the abortion several times and weeks had passed, she was finally told by the specialist who worked with this doctor that there was a parent support group for families who were expecting babies with these health problems. She called an 800 number and got valuable information. Ms. Joslin said if this bill had been in place, another woman in her place wouldn't have to go out and search for all this information. It would have been part of the packet and that 800 number would have been given to her up front instead of having to wait weeks. She said that the information

she obtained from the parent support group was not "rosy" either; they were very straightforward in their facts. The fact is, some of those children live.

Number 1063

MS. JOSLIN said none of the parents who have children with these abnormalities regretted giving life to their children. It was very helpful to see pictures of what these children look like and read in detail some difficulties encountered by other families. When her son was born full term, because of the support of that parent group and the information they provided, she was able to know what some of the issues were going to be. Isaiah had feeding issues that would come up at the hospital. Sometimes it surprised the staff how well she was able to deal with it because she already knew what to expect. When they found out Isaiah was probably deaf, she was not "freaked out" because she had already read ahead of time that many of these children are deaf.

MS. JOSLIN said if this bill were passed, the information should be made available for parents who have children with physical abnormalities, women who are unwed, and women with financial and emotional problems. There are so many pregnancy resources out there; she said she believes it would be difficult for a doctor to keep up with all of it. She suggested that it would be great for the state to take over the responsibility of updating that web site and ensuring that women have information available to make an informed decision.

MS. JOSLIN told the committee that it is not right that the medical professionals who have a very biased opinion about what was best for her and her family provided very slanted information and left out information because they wanted one outcome. The doctors made it very clear that they were very disappointed and confused about why she would choose to give life to her son. Isaiah was born full term and lived 30 days. It was the hardest, sweetest thing she has done and she has no regrets. She watched her son die in her arms, and it is something that has cemented in her heart and mind that women must be given all the information.

Number 1184

MS. JOSLIN urged the committee to have respect for women. She said it isn't demeaning and isn't harassment to give more information. She urged the committee to pass this bill.

CHAIR WILSON informed the committee that testimony would continue on Thursday. [HB 292 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 5:10 p.m.