**ALASKA STATE LEGISLATURE**
**HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES**
**STANDING COMMITTEE**
March 25, 2004
3:04 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
Representative Mary Kapsner

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 500
"An Act relating to medical review organizations; and providing for an effective date."

- MOVED HB 500 OUT OF COMMITTEE

HOUSE BILL NO. 338
"An Act relating to attendance at public school; and providing for an effective date."

- HEARD AND HELD

CS FOR SENATE BILL NO. 201(HES)
"An Act relating to home care and respite care; and providing for an effective date."

- MOVED CSSB 201(HES) OUT OF COMMITTEE

HOUSE BILL NO. 535
"An Act relating to liability for expenses of placement in certain mental health facilities; relating to the mental health treatment assistance program; and providing for an effective date."

- HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 500
SHORT TITLE: MEDICAL REVIEW ORGANIZATION
SPONSOR(S): REPRESENTATIVE(S) SAMUELS

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| 02/16/04 | (H) | READ THE FIRST TIME - REFERRALS |
| 02/16/04 | (H) | HES |
| 03/25/04 | (H) | HES AT 3:00 PM CAPITOL 106 |

BILL: HB 338
SHORT TITLE: ENTRY INTO SCHOOL
SPONSOR(S): REPRESENTATIVE(S) MCGUIRE

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| 01/12/04 | (H) | PREFILE RELEASED 1/2/04 |
| 01/12/04 | (H) | READ THE FIRST TIME - REFERRALS |
| 01/12/04 | (H) | EDU, HES |
| 02/17/04 | (H) | EDU AT 11:00 AM CAPITOL 124 |
| 02/17/04 | (H) | Moved CSHB 338(EDU) Out of Committee |
| 02/17/04 | (H) | MINUTE(EDU) |
| 02/18/04 | (H) | EDU RPT 6DP 1NR |
| 02/18/04 | (H) | DP: WILSON, OGG, SEATON, GARA, KAPSNER, |
| 02/18/04 | (H) | GATTO; NR: WOLF |
| 02/18/04 | (H) | FIN REFERRAL ADDED AFTER HES |
| 02/24/04 | (H) | CORRECTED RPT CS(EDU) 3DP 1NR |
| 02/24/04 | (H) | DP: WILSON, KAPSNER, GATTO; NR: WOLF |
| 03/02/04 | (H) | HES AT 3:00 PM CAPITOL 106 |
| 03/02/04 | (H) | Scheduled But Not Heard |
| 03/25/04 | (H) | HES AT 3:00 PM CAPITOL 106 |

BILL: SB 201
SHORT TITLE: HOME & RESPITE CARE: CRIMINAL RECORDS
SPONSOR(S): JUDICIARY

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| 04/28/03 | (S) | READ THE FIRST TIME - REFERRALS |
| 04/28/03 | (S) | STA, HES |
| 05/15/03 | (S) | STA AT 3:30 PM BELTZ 211 |
| 05/15/03 | (S) | -- Meeting Postponed to 5/17/03 -- |
| 05/17/03 | (S) | STA RPT 3DP |
| 05/17/03 | (S) | DP: STEVENS G, COWDERY, DYSON |
| 05/17/03 | (S) | STA AT 11:30 AM FAHRENKAMP 203 |
| 05/17/03 | (S) | Moved Out of Committee |
| 05/17/03 | (S) | MINUTE(STA) |
| 02/04/04 | (S) | HES AT 1:30 PM BUTROVICH 205 |
| 02/04/04 | (S) | Moved CSSB 201(HES) Out of Committee |
| 02/04/04 | (S) | MINUTE(HES) |

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|---|---|---|
| 02/06/04 | (S) | HES RPT CS 3DP 1NR SAME TITLE |
| 02/06/04 | (S) | DP: DYSON, GREEN, WILKEN; NR: GUESS |
| 03/02/04 | (S) | TRANSMITTED TO (H) |
| 03/02/04 | (S) | VERSION: CSSB 201(HES) |
| 03/03/04 | (H) | READ THE FIRST TIME - REFERRALS |
| 03/03/04 | (H) | STA, HES |
| 03/23/04 | (H) | STA AT 8:00 AM CAPITOL 102 |
| 03/23/04 | (H) | Moved Out of Committee |
| 03/23/04 | (H) | MINUTE(STA) |
| 03/23/04 | (H) | HES AT 3:00 PM CAPITOL 106 |
| 03/23/04 | (H) | <Pending Referral> |
| 03/24/04 | (H) | STA RPT 4DP 2NR |
| 03/24/04 | (H) | DP: SEATON, HOLM, LYNN, WEYHRAUCH; |
| 03/24/04 | (H) | NR: COGHILL, BERKOWITZ |
| 03/25/04 | (H) | HES AT 3:00 PM CAPITOL 106 |

BILL: HB 535
SHORT TITLE: LIMIT STATE AID FOR MENTAL HEALTH CARE
SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

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| 03/08/04 | (H) | READ THE FIRST TIME - REFERRALS |
| 03/08/04 | (H) | HES, JUD, FIN |
| 03/25/04 | (H) | HES AT 3:00 PM CAPITOL 106 |

**WITNESS REGISTER**

SARA NIELSEN, Staff
to Representative Ralph Samuels
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Testified on behalf of Representative Samuels, sponsor of HB 500.

SANDY SEVERSON, Administrative Director
Quality Support Services
Providence Health System
Anchorage, Alaska
POSITION STATEMENT: Testified in support of HB 500.

RYAN MAKINSTER, Staff
to Representative Lesil McGuire
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Testified on behalf of Representative McGuire, sponsor of HB 338 and answered questions from the committee.

BRIAN HOVE, Staff
to Senator Ralph Seekins
Senate Judiciary Committee
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Presented SB 201 on behalf of the Senate Judiciary Standing Committee, sponsor, which is chaired by Senator Seekins.

JERRY LUCKHAUPT, Attorney
Legislative Legal Counsel
Legislative Legal and Research Services
Legislative Affairs Agency
Juneau, Alaska
POSITION STATEMENT: Testified and answered questions pertaining to SB 201.

KATHRYN MONFREDA, Chief
Criminal Records
Department of Public Safety
Anchorage, Alaska
POSITION STATEMENT: Testified on SB 201.

BILL HOGAN, Director
Division of Behavioral Health
Department of Health and Social Services
POSITION STATEMENT: Testified in support of HB 535 and answered questions from the members.

JEANETTE GRASTO, Member
Alaska Mental Health Board
Fairbanks, Alaska
POSITION STATEMENT: Testified in opposition to HB 535.

VERNER STILLNER, M.D.
Psychiatrist
Bartlett Regional Hospital;
Legislative Representative
Alaska Psychiatric Association
Juneau, Alaska
POSITION STATEMENT: Testified in opposition to HB 535 and answered questions from the members.

JEFF JESSEE, Executive Director
Alaska Mental Health Trust Authority
Juneau, Alaska

POSITION STATEMENT: Testified on HB 535 and answered questions from the members.

SHARRON LOBAUGH, National Alliance for the Mentally Ill
Juneau, Alaska
POSITION STATEMENT: Testified on HB 535 and answered questions from the members.

ROD BETIT, President
Alaska State Hospital and Nursing Home Association
Juneau, Alaska
POSITION STATEMENT: Testified in support of HB 535 and answered questions from the members.

RICHARD RAINERY, Executive Director
Alaska Mental Health Board
Juneau, Alaska
POSITION STATEMENT: Testified on HB 535 and answered questions from the members.

**ACTION NARRATIVE**

**TAPE 04-22, SIDE A**
Number 0001

**CHAIR PEGGY WILSON** called the House Health, Education and Social Services Standing Committee meeting to order at 3:04 p.m. Representatives Wilson, Wolf, Coghill, Seaton, Cissna, and Kapsner were present at the call to order. Representative Gatto arrived as the meeting was in progress.

HB 500-MEDICAL REVIEW ORGANIZATION

Number 0050

CHAIR WILSON announced that the first order of business would be HOUSE BILL NO. 500, "An Act relating to medical review organizations; and providing for an effective date."

Number 0102

SARA NIELSEN, Staff to Representative Ralph Samuels, Alaska State Legislature, testified on behalf of Representative Samuels, sponsor of HB 500. She told the members that this bill adds the Joint Commission on Accreditation of Health Care Organizations (JCAHO) to the narrow definition of a review

organization. She explained that the commission is an independent not-for-profit organization that evaluates 16,000 health care organizations within the United States. The board is comprised of physicians, nurses, and consumers, she added. Ms. Nielsen said that JCAHO is the nation's oldest and largest standards setting and accrediting body in the health care field, having operated for more than four decades. She emphasized the importance of including JCAHO in the review organization definition because health care facilities that provide information to the commission will have the assurance that information will be treated as confidential. Its addition to the statute will ultimately promote quality health care in Alaska, she summarized.

Number 0213

SANDY SEVERSON, Administrative Director, Quality Support Services, Providence Health System, testified in support of HB 500. She told the members that she believes this legislation is necessary because JCAHO is the principal independent organization that performs accreditation of hospitals and other health care organizations throughout the United States. Recently JCAHO redesigned its survey process from a tri-annual survey to a policy of requiring hospitals and other health care organizations to complete a mid-cycle periodic performance review. The periodic performance review is a self-assessment of compliance with all applicable standards, she said. If there are areas that are found to be in non-compliance, the hospitals and health care facilities are charged to develop plans of action along with measures of success to demonstrate that the identified problem areas have been resolved when JCAHO does an on-site visit every three years, Ms. Severson explained.

Number 0322

MS. SEVERSON told the members that it was the intent of JCAHO that all information developed through this process would be shared directly with them. The American Hospital Association, the American Society of Health Care Risk Management, and several state hospital associations immediately identified this approach as a significant risk management concern for health care organizations, she explained. Ms. Severson pointed out that depending on each state's statutes regarding confidentiality of quality information, and what specifically entailed a quality review organization, the information shared directly with JCAHO could be deemed discoverable and used against the health care facilities by any individual or entity requesting those results,

she said. This would waive health care organizations' protection of the quality control data if the statutes do not recognize JCAHO as a quality review organization.

Number 0441

MS. SEVERSON told the members that JCAHO met with concerned health care organizations, the American Hospital Association, and the American Society of Health Care Risk Management and offered the health care organizations two additional options. The first option suggested doing the self-assessment, but not submitting it to JCAHO. The drawback of this is that the organization would loose the ability to actively discuss the details of the action plan with JCAHO and get feedback from them. She explained that JCAHO takes data from participating hospitals and publishes trends in patient safety and quality of care so health care organizations can learn from each other. In order for this to work effectively it is important that all the health care organizations submit its data to them, she said.

MS. SEVERSON said that the second option is to choose to not do the periodic performance review and instead do an on-site JCAHO survey. The cost of additional surveys are charged to the hospitals and will further inflate health care costs. She added that surveys also take staff time away from patient care. Ms. Severson told the members that Providence Health Systems does not believe this option is the solution. She said that it has completed the self-assessment process and has found it to be very meaningful and educational for staff. Ms. Severson shared that Providence Health Systems sought legal counsel to review the Alaska statute as it pertains to public accessibility to information reported through this process. She said its attorneys reported that under current Alaska statutes JCAHO is not considered a quality review organization; therefore, the self-assessment information could be vulnerable to discovery once it is submitted to JCAHO. She summarized that Providence Health Systems is committed to evaluating and improving the quality of health care in Alaska. It is important that this legislation be enacted to protect the quality review information, Ms. Severson stated.

Number 0566

REPRESENTATIVE COGHILL commented that he understands the benefit of JCAHO. He said he believes current statute already addresses this issue and asked for clarification that additional protections are needed.

Number 0615

MS. NIELSEN replied that it is important to add the commission to the statute to eliminate any uncertainty that it is not included.

REPRESENTATIVE COGHILL asked if there are any other review teams that should be included.

MS. NIELSEN responded that she is not aware of any; however, she told the members that the sponsor would not be opposed to including others who would want to be included in this bill.

Number 0722

REPRESENTATIVE SEATON moved to report HB 500, Version A, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 500 was reported out of the House Health, Education and Social Services Standing Committee.

## HB 338-ENTRY INTO SCHOOL

Number 0745

CHAIR WILSON announced that the next order of business would be HOUSE BILL NO. 338, "An Act relating to attendance at public school; and providing for an effective date."

[While no motion was made, Chair Wilson announced that version S, 23-LS1258\S, Mischell, 3/4/04, was before the committee as the working document.]

CHAIR WILSON told the members it is her intention to take testimony today, but not move the bill from committee.

Number 0786

RYAN MAKINSTER, Staff to Representative Lesil McGuire, Alaska State Legislature, testified on behalf of Representative McGuire, sponsor of HB 338 and answered questions from the committee. He told the committee that this bill accomplishes two small but necessary things. First, it moves the date for entry into kindergarten from August 15 to September 1. This change would bring the entry date in line with most other

states. Mr. Makinster shared that there are approximately 35 states that have September 1 or later as the entry date for kindergarten. It is important for Alaska because there are a lot of people moving into the state, particularly military families.

MR. MAKINSTER said a second benefit of this bill is that it allows school boards to name an administrator to oversee this process and to the review the applications for early entry into kindergarten. Currently the statute provides that the school board must review every single early entry request. This would make the process much more efficient, he added.

Number 0886

REPRESENTATIVE WOLF asked how many other states allow early entry into kindergarten.

MR. MAKINSTER replied that there are currently 35 states which allow early entry into kindergarten. If this bill passes, Alaska would be the 36th state. He explained that there are two or three states which have August 15 or before as the cutoff for entry into kindergarten and the rest of the states are later than August 15. He commented that one state leaves the decision entirely up to the parents.

REPRESENTATIVE WOLF questioned what dates other states use beyond August 15th.

MR. MAKINSTER replied that there are 15 states that have entry dates after September 1. The latest is California which has a December 2 early entry date. The states before September 1 include Alaska which has August 15, Delaware which has August 31, Indiana which has July 1, and other states that do not delegate a specific date, he said. Five states have dates before Alaska, ten are optional, and the rest after September 1st, he summarized.

Number 0983

REPRESENTATIVE COGHILL asked what time of the year most schools start in Alaska.

MR. MAKINSTER responded that most schools start [classes] after September 1; however, the [actual] school year starts on July 1.

REPRESENTATIVE COGHILL commented that it has been his experience that most of the schools start the third week in August which would make the August 15 date more appropriate than the September 1 date. He said he would like to know how the districts determined the third week in August as an appropriate time to start school.

MR. MAKINSTER replied that he has not looked at the start date. Changing the start date will not change the mix of students very much, he added. In a school district the size of Anchorage it is estimated that this change will mean less than one-half student per class.

REPRESENTATIVE COGHILL asked if there is a problem that would merit the change of the current date.

MR. MAKINSTER said that he does not have a specific incident to site, but that there is research in the members' packet which reflects that starting students at an earlier age can be beneficial. He added that the benefits may not be evident in the first couple of years, but in the long run studies have shown that by starting students at an earlier age the student may progress at a faster rate of growth in the educational system and end up being more involved with school at the high school level.

REPRESENTATIVE COGHILL commented that he does not see how a two-week difference is worth arguing over.

Number 1093

REPRESENTATIVE WOLF said he believes there are a lot of Head Start programs in Alaska which would address early education.

MR. MAKINSTER replied that he has not looked into Head Start programs. He emphasized that this bill would just align Alaska's kindergarten starting date with that of the lower 48 states.

Number 1123

REPRESENTATIVE WOLF commented that the Head Start program starts kids at the age of three and goes through five years of age. He said he does not believe children are being harmed by the current start date.

MR. MAKINSTER agreed with Representative Wolf, but pointed out that not every school district has a Head Start program.

Number 1155

REPRESENTATIVE KAPSNER said she would like to comment on Representative Coghill's earlier question about why school districts start school in August. She explained that the Lower Kuskokwim School District opts to start earlier in August so they can get off earlier in May for spring hunting or get off earlier for Russian Orthodox Christmas.

REPRESENTATIVE COGHILL commented Representative Kapsner makes a good point.

Number 1195

REPRESENTATIVE SEATON asked how many students have birthdays which fall between August 15 and September 1. He said he would also like to know the number of students who have applied for early entrance into kindergarten.

MR. MAKINSTER replied that he checked with the Anchorage School District and still does not have an exact count, but it is estimated that there would be less than one-half student per class added to the system.

REPRESENTATIVE SEATON asked if that is per kindergarten classroom.

MR. MAKINSTER responded that is correct.

Number 1245

CHAIR WILSON asked if the Department of Education and Early Development has any opposition to this bill.

Number 1256

MR. MAKINSTER responded that the department actually has a letter of support from the Anchorage School District on this bill.

CHAIR WILSON announced that the HB 338 will be held in committee.

SB 201-HOME & RESPITE CARE: CRIMINAL RECORDS

Number 1278

CHAIR WILSON announced that the next order of business would be CS FOR SENATE BILL NO. 201(HES), "An Act relating to home care and respite care; and providing for an effective date."

Number 1300

BRIAN HOVE, Staff to Senator Ralph Seekins, presented SB 201 on behalf of the Senate Judiciary Standing Committee, which Senator Seekins chairs. He explained that the bill was brought forward in December 2002 by the revisor of statutes. He stated that a law was passed that referred to a statute that had been repealed; when the revisor of statutes reviewed the law, it was determined that there were inconsistencies that needed to be addressed. He said that SB 201 would clarify these inconsistencies by replacing the repeal information with criminal history record information permitted by Public Law (P.L.) 105-277 and AS 12.62.

CHAIR WILSON remarked that SB 201 dealt with criminal statutes.

MR. HOVE used an example that respite care providers have to do criminal background checks on employees to ensure that the employees hadn't committed certain crimes.

Number 1442

REPRESENTATIVE COGHILL stated that three years ago, [the legislature] was required by public law to pass laws for vulnerable adults, and one of the requirements was to do criminal background checks on employees [of respite care providers]. He stated that during the formation of those laws, [the legislators] had apparently skipped over a statute, or referenced one that had previously been repealed. He stated that one of his pet peeves is having the federal government telling [the states] how to go about that. He stated it also bothers him that [the state] has to reference this federal requirement in statute. He said that he hasn't found a way around the federal requirement, and that SB 201 would be consistent with Alaska's vulnerable-adults law.

Number 1501

REPRESENTATIVE SEATON commented that he has previously heard SB 201 in the House State Affairs Standing Committee. He explained

that there were references to criminal justice information, and SB 201 only refers to criminal history records so it included information that shouldn't be acquired in a criminal background check. He stated that he is comfortable with passing SB 201.

Number 1526

REPRESENTATIVE WOLF stated that he thought criminal background checks were already required for respite care employees.

MR. HOVE said that it is required, but the law refers to a section of the statute that no longer exists. He stated that though it is required, there is nothing in statute that explains how to do it.

Number 1609

JERRY LUCKHAUPT, Attorney, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Agency, affirmed Mr. Hove's statement. He further explained that three or four years ago, a bill repealed the section of the statute that explained how to perform these criminal background checks. He stated that SB 201 was brought forth to reinstate the section of statute that is needed, and to "clean up" inconsistencies from the passage of the bill mentioned earlier. He stated that the bill that changed all of this was not sent through Legislative Legal and Research Services first, so the agency could not assess the bill until after it was enacted into law. He explained that Legislative Legal and Research Agency found these inconsistencies two years ago, and referred it to the Senate Judiciary Standing Committee.

Number 1644

REPRESENTATIVE CISSNA asked if it was a true mistake or if there was a reason that the oversight happened.

MR. LUCKHAUPT responded that he felt it was a true mistake because [the legislature] repealed Section 12.62.035 which was the section referred to in order to perform criminal history checks. The legislation that made this oversight was part of the new criminal justice information act that was developed by a governor's bill. He stated that the bill fixed a lot of things, but overlooked these two chapters.

Number 1678

REPRESENTATIVE COGHILL asked for clarification on the scope of the criminal history record involved in SB 201.

MR. LUCKHAUPT stated that there are various terms involved with criminal history and criminal justice information that are included in section 12.62. He stated that in that section, criminal history is defined as past conviction information, current offender information, and criminal identification information. He said that those three things make up the criminal history record. He explained that there is a broader term, criminal justice information, that includes those three things, as well as correctional treatment information, non-conviction information, and information relating to a person who has relocated.

Number 1750

REPRESENTATIVE COGHILL referred to hearing SB 201 in the House State Affairs Standing Committee. He said that he recalled the debate over what level to require employers to obtain of an employee working for respite care providers, whether it should be the criminal history record or criminal justice information. He said that if he recalled correctly, it was determined that the criminal history record was sufficient for hiring purposes.

MR. LUCKHAUPT replied that Representative Coghill is basically correct. However, for some specific purposes such as mental illness cases that requirement was broadened to include non-conviction arrest information. He explained that along with the state's requirement to conduct these background checks, there is also a federal requirement. He stated that because these statutes weren't in effect, the background checks might not have been done. He commented that in order to resolve that problem, the statutes need to be enacted to require the providers to perform the background checks on employees.

Number 1877

REPRESENTATIVE COGHILL inferred that those reasons were why this bill is separate from the revisor of statute's bill, stating there are two very substantive issues; the criminal history issue and assuming authority of public law into statute. He asked Mr. Luckhaupt to provide some reassurance that if P.L. 105-277 is changed in the future that it isn't going to really "mess up" the state's statutes.

Number 1909

MR. LUCKHAUPT responded that he understands the concern with referring to other statutes. He stated that there have been problems in the past where statutes were referred to and then those statutes had been amended. He said that there were certain ways that the legislature could handle this situation. He said that [the legislature] could forbid people with a past criminal record from working in respite care, or they could leave that decision up to the employer. He commented that was the reason this bill is separate from the revisor of statute's bill. Mr. Luckhaupt said that there is a federal requirement that mandates criminal background checks, and he doesn't think that is going to change. He noted that if it did, Legislative Legal and Research Services was there to identify that significant changes have occurred. He stated that the Department of Health and Social Services has many federal statutes that it has to comply with at all times and it should be watching for changes as well. Mr. Luckhaupt commented that the legislature could be specific in what crimes need to be required for review in order to get hired.

Number 2032

MR. LUCKHAUPT noted that many other states are referencing the public law when creating their state statutes, and he believes that referencing the public law is the easiest way to enact the statute.

REPRESENTATIVE COGHILL asked if the public law did change, whether it would require the state to make changes as well.

MR. LUCKHAUPT replied that if the public law changed, the employers would still be required under state statute to perform these background checks because of the language in the statute. He told the committee that he tried to anticipate future changes when drafting SB 201.

Number 2119

REPRESENTATIVE COGHILL shared that he asked that question because he wanted it on the record that the bill was drafted so that Alaska statutes would hold up in court of law if it was ever challenged. He said that he wanted the state policy to match the federal policy, but also be able to stand on its own.

Number 2157

KATHRYN MONFREDA, Chief, Criminal Records, Department of Public Safety, stated that she really didn't have anything more to add. She agreed that the statute had to be changed to make it mandatory for a criminal background check.

Number 2163

REPRESENTATIVE COGHILL moved to report CSSB 201(HES) out of committee with individual recommendations. There being no objection, CSSB 201(HES) was reported from the House Health, Education and Social Services Standing Committee.

HB 535-LIMIT STATE AID FOR MENTAL HEALTH CARE

Number 2200

CHAIR WILSON announced that the final order of business would be HOUSE BILL NO. 535, "An Act relating to liability for expenses of placement in certain mental health facilities; relating to the mental health treatment assistance program; and providing for an effective date."

Number 2225

BILL HOGAN, Director, Division of Behavioral Health, Department of Health and Social Services, testified in support of HB 535 and answered questions from the members. He told the members that HB 535 is designed to make changes in the existing statute regarding diagnosis, evaluation, and treatment services. This bill would give the Department of Health and Social Services (DHSS) and the Division of Behavioral Health greater authority to manage the program and services. Diagnosis, evaluation, and treatment (DET) services are consider a critical component of the community mental health and behavioral health system in Alaska. The concept behind DET is to offer the opportunity for individuals who may be experiencing a psychiatric emergency or crisis and who meet the criteria for involuntary commitment, to be stabilized in their home community, as close to their home and family as possible.

Number 2250

CHAIR WILSON asked if she is correct in saying that he is talking about individuals who would be harmful to themselves or someone else.

MR. HOGAN responded that is correct. The criteria that would be looked at is harmful to self, others, or unable to care for themselves due to a mental illness.

MR. HOGAN explained that over the last several years the cost for this program, which is primarily funded with general fund dollars, has grown dramatically. The cost was approximately $1.9 million in FY00 and has grown to over $3.3 million in FY03. He said that the division has been receiving bills from the various facilities, and reviewing the bills for services provided several months after the fact. Mr. Hogan commented that current statute says that bills need to be submitted to the department for review within six months of the provision of service. He explained that in many cases the department does not even know that someone has been admitted to a facility and that it will be liable for payment of the services. One component of the bill creates a registration mechanism where providers would be asked to notify the division within 24 hours of admittance of an individual, the diagnosis, and reason for admittance. Mr. Hogan emphasized that it is the division's desire to work collaboratively with providers to better manage care in these settings. The division would conduct a review on the eighth day. He told the members that evaluation and diagnosis services are provided between the third and seventh day of admittance. Treatment services are actually provided beyond seven days. It is for this reason it is important to look at that service on the eighth day to ensure that the individual needs to stay longer, he explained.

Number 2351

MR. HOGAN commented that one of the key aspects of the bill and a concern which has been highlighted by the Alaska Mental Health Board and the Alaska Mental Health Trust Authority, is the notion of changing language from "shall" to "may". The current language in statute has been interpreted as an entitlement. Mr. Hogan clarified that there is not an official Attorney General's opinion indicating that it is an entitlement; however, there have been interpretations that it is an obligation on the part of the state to pay for the service, whether or not the state has sufficient funds. One of the aspects of this bill would be to change the language to ["may" which would] make payment discretionary.

MR. HOGAN told the members there is another critical aspect in the bill. It provides for the department to actively work with

hospitals in the event that there are insufficient dollars and look at modifying the rate of payment.

**TAPE 04-22, SIDE B**
Number 2359

MR. HOGAN emphasized that the division goes to great lengths to ensure that the program is properly managed, and that there would be adequate resources, but admitted that in a worst-case scenario it may be necessary for an individual to go to the Alaska Psychiatric Institute (API). He emphasized that is not what the division intends to do, understands that the community mental health system is critical, and wants to maintain the integrity of that component and system. With increased costs the DHSS believes it is important to have the authority to better manage it, Mr. Hogan said.

MR. HOGAN pointed to the handout provided the committee on the increase in costs, sites of service, and comparisons of daily rates among providers of this service. He commented that the primary providers are Fairbanks Memorial Hospital in Fairbanks and Bartlett Hospital in Juneau. He explained that the rationale for the increase in hospital costs, which has gone up by about 100 percent since FY01 to FY03, is partially due to the increase in the Medicaid rate which has gone up a little over 25 percent. Another reason is due to the number of people served and the total occupancy between FY01 and FY03, Mr. Hogan remarked.

Number 2304

CHAIR WILSON said that the committee will now take testimony from others who have strong concerns about this bill and then pose questions.

Number 2204

JEANETTE GRASTO, Member, Alaska Mental Health Board, testified in opposition to HB 535. She told the members that she believes this bill is taking the state backwards. In Fairbanks there is such gratitude for the quality and capacity of the program in the hospital's mental health unit. Before the hospital expanded from 9 beds to 20 beds many people were going to jail until the individuals could be transported to API. It was horrible, she stated. The DET is a critical part of the community based mental health services. Ms. Grasto commented that she agrees with the utilization review and oversight of the program and

believes it to be an excellent idea. There is a major philosophical change happening in this bill without any discussion or participation by the stakeholders. That change is the backing away from the principle of providing community based services as close as possible to the consumer's home in the least restrictive setting, she said. Ms. Grasto said that she believes this change is discriminatory to the mentally ill in particular. The Alaska Mental Health Board passed a resolution urging the protection of adequate resources for vulnerable Alaskans.

MS. GRASTO pointed out that API is being downsized as more community-based services are being provided there is less need for institutional care. She asked if the committee believes it is appropriate to take away an indigent individual's civil rights who cannot pay for his/her treatment.

Number 2108

VERNER STILLNER, M.D., Psychiatrist, Bartlett Regional Hospital; Legislative Representative, Alaska Psychiatric Association, testified in opposition to HB 535 and answered questions from the members. He told the members that he believes HB 535 is a threat to the involuntary treatment of the mentally ill in the least restrictive environment, close to their homes, communities of origin, and families.

DR. STILLNER said that historically speaking before statehood and early statehood, Alaska sent all of the mentally ill to Harborview which was in Portland, Oregon. Then API came into being and was the only place an individual could be sent involuntarily for treatment. Dr. Stillner shared that he served as the director of the Division of Mental Health under the Hammond administration. At that time there was an effort to get hospitals to "buy into" the notion of regionalization, taking individuals and evaluating them for 72 hours or even for 30-day treatments. The hospitals asked where the money would come from to do this, he said. There was no money available at the time. However, through the DET program hospitals received the assurance that it would be paid for 72-hour hospitalizations and 30-day commitments, he commented. Two facilities were developed that could hold people behind locked doors, one in Fairbanks and one in Juneau. After 30 days the individual would be transferred to API if necessary, he explained. Dr. Stillner stated that these two facilities brought about a regionalization of treatment that did not exist before the program came into being. In addition seven other hospitals now are able to do 72-

hour evaluations. When a judge, working in consultation with a mental health professional, deems that some hospitalization against an individual's will is necessary it can be done close to home in nine different hospitals throughout Alaska, he explained.

DR. STILLNER commented that he sees the mention of discretionary funding as a threat to a hospital's motivation to take care of these individuals. As many of the members in the room know many of the mentally ill are not always very pleasantly received in hospital settings. These individuals may be noisy, not well dressed, bizarre, and may have a difficult time in the emergency room. He emphasized that hospitals are providing care and are currently being rewarded for that work.

DR. STILLNER told the members that he is not surprised that the number of bed days has gone up. Under the conditions in which the state operates there has been a tremendous reduction in the community mental health funding. It is known that when community funding is reduced the institutions become a greater source for referrals, and that includes the correctional system which he believes to be the new asylums or hospitals.

Number 2005

DR. STILLNER told the members that there are increasing numbers of 30-day commitments. Bartlett sends very few people to API, he added. The number that have required longer than a 30 day commitment last year can be counted on one or two hands. He summarized that the system is working with treatment being offered close to home.

DR. STILLNER commented that another reason the number of beds has gone up is that often when there is an individual ready to go to API, it does not have a bed available and therefore it has been necessary to keep people longer. There have been instances where Bartlett has kept individuals up to 52 days because of the problem with space or of the difficulty in transport services between Bartlett and API, he said. Dr. Stillner summarized that the issue of escalating cost of care over the last three years is complicated.

Number 1961

DR. STILLNER pointed out that there is a problem when hospitalizing someone against his/her wishes, taking away his/her rights, and then asking the individual to pay for it.

He commented that he does not believe there is another jurisdiction in the United States that asks an individual to pay for an involuntary hospitalization. Hospitals won't take the risk of being designated by the state as being a DET facility if there is no assurance of payment. Dr. Stillner stated that the way this bill reads, when the money runs out, the payment runs out, and the patient will be sent to API. He underscored that next year API will be downsizing from the current capacity from 85 beds to 72 beds. A greater reliance on the DET program will then occur; and the individuals will either be sent to API or into the correctional system for containment.

DR. STILLNER urged the members not to pass this bill until some of these points are addressed.

Number 1893

REPRESENTATIVE CISSNA asked if the population in Juneau is growing. Is the DET program similar to the emergency room (ER), where people who have lost their insurance and have trouble end up there, she asked.

Number 1851

DR. STILLNER replied that the Southeast population is not growing and is static at around 90,000. He rephrased Representative Cissna's question in asking why there is an increase in utilization of the ER. Dr. Stillner replied that the ER becomes the catch all for individuals. For example, recently a young woman wanted to jump off the Juneau-Douglas Bridge and the police took her to the ER. A mental health clinician came in, evaluated her, called the judge with a consultation with a psychiatrist, and advised that the woman needed to be hospitalized involuntarily for 72 hours for observation. It is a public health issue, he emphasized. It protects the woman and others in some ways. Dr. Stillner said that he sees this as a needed service. Sometimes individuals come in from judges [orders], but often are brought into the ER by an officer. An evaluation is done, the individual is deemed a mentally ill person, harmful to self or others, or gravely disabled. In summary, Dr. Stillner agreed that the ER is being utilized more and expressed the belief that it is due to the fact that the community mental health systems are not operating as well.

REPRESENTATIVE CISSNA surmised that Dr. Stillner is saying that [the increased use of the ER] is a warning sign that the community mental health system needs to be working better.

DR. STILLNER responded that the DET is a very well designed system, but it needs to work better. He told the members that the monitoring of the days a hospital keeps an individual has not been overseen very well. Speaking as a taxpayer that could be improved, he said.

Number 1750

CHAIR WILSON commented that there were 65 clients served last year and 57 this year [Summary of DES/T for FY00 to FY03]. However, last year the [average] number of days that clients were hospitals was 6.6, but that number doubled this year, she noted.

DR. STILLNER replied that is correct.

CHAIR WILSON asked if the patients' conditions were more serious.

Number 1687

DR. STILLNER explained that API will not consider a transfer until a patient has been hospitalized for 30 days. For example, recently there was a woman who was admitted who was in her first trimester [of pregnancy] and was diagnosed as psychotic, mentally ill, and a danger to herself. It was not possible to medicate her because of her pregnancy. A petition was made to API and it took at least 10 days just to negotiate the transfer, he said. There have been more 30-day treatment episodes this past year. For example, one contributing factor is that individuals who come to Bartlett from Ketchikan usually are committed for a 30-day treatment. He clarified that this does not mean an individual requires 30 days of treatment, but that the individual can stay up to 30 days without discharge. If an individual gets better then he/she could be discharged, but it becomes more difficult to discharge individuals because of the difficulty in getting follow-up care.

CHAIR WILSON asked if API has changed its policy from previous years.

DR. STILLNER commented that he does not know if that is fair to say, but agreed that API's numbers are up. In the case he sited

earlier, he said it took up to 10 days to get a woman transferred to API when it was really our wish to have her transferred immediately. It may have been a timing issue, and not necessarily a change in API's policy. Dr. Stillner explained that since Bartlett is a DET facility, API does not want any transfers to be considered until 30 days of treatment have been attempted in an effort to get individuals back into his/her community.

Number 1608

CHAIR WILSON pointed out that there are significantly higher numbers of days in treatment in Bartlett than other DES/T.

DR. STILLNER responded that it would be important to ask how many are 30-day commitments.

CHAIR WILSON asked who treats patients that are transferred to Bartlett.

DR. STILLNER replied that once Ketchikan commits someone through the court system and sends the individual to Bartlett, the Bartlett staff would treat the patient. He explained that sending an individual back to Ketchikan is not always an easy issue. There are housing, follow-up appointments, and treatment issues that need to be addressed.

CHAIR WILSON commented that there are some snags in the system.

Number 1572

REPRESENTATIVE SEATON referred to the chart [Summary of DES/T for FY00 to FY03] and noted that Ketchikan General Hospital had a significant number of clients and days, yet in FY02 and FY03 the number went to zero. He asked if Dr. Stillner if he knows if all of Ketchikan's patients were sent to Bartlett, which would then account for the increased numbers at Bartlett.

DR. STILLNER commented that he was as puzzled as Representative Seaton by the number in Ketchikan. He explained that Ketchikan cannot do 30-day treatments there, only 72-hour evaluations. Usually the patients will be transferred to Juneau. He questioned why there would be a zero on the chart for FY02 and FY03 unless the state has disallowed all payment of treatment for [the 72 hour holds]. Dr. Stillner said he had heard a rumor to that effect earlier. He referred that question to Mr. Hogan.

Ketchikan does send individuals up to Bartlett on the second or third day of a 72-hour hold frequently, he stated.

Number 1476

JEFF JESSEE, Executive Director, Alaska Mental Health Trust Authority, testified on HB 535 and answered questions from the members. He spoke to aspects of the bill that the trust supports, and commented that this program does need better management by the department. This is a critical part of mental health emergency services, and these are people who have been identified as a danger to themselves or others. The Alaska Mental Health Trust Authority is very supportive of the management elements of this bill.

MR. JESSEE shared the history of mental health services in Alaska. Individuals use to be sent to Morningside, then when API was built, everyone was sent to API. It was determined that there would be better results if individuals could be served closer to their communities. Mr. Jessee pointed out that is the reason the designated evaluation and treatment system (DET/S) was developed. He emphasized that results are better and the authority believes that the system should be expanded. The new API has been built with a 54 to 72-bed capacity, which is significantly smaller than the old facility. That was done based upon the fact that the state had regional DETs in place. The thought was that local services would be expanded, he added.

Number 1412

MR. JESSEE told the members that even Anchorage needs a DET, but one has not be designated because API is there. Providence [Health Systems] currently has a certificate of need [CON] application to develop DET beds in Anchorage. If it is approved it would allow for API to run at the 54 bed level which could save about a unit of cost for API. The valley also needs DET beds, he commented. It is a growing population and it will have its share of mental health emergency needs. This is a core part of the mental health system that needs to be supported, he said. However, he agreed that it also needs to be managed. Mr. Jessee emphasized that no one should be in these programs unless he/she meets the commitment criteria and should not remain in it one minute longer than is needed.

MR. JESSEE explained that the "rubbing point" from the Alaska Mental Health Trust Authority's perspective is if the Department of Health and Social Services finds that it is short on funds,

that the department would be authorized to pro-rate the reimbursement to the hospitals. It would mean that the department could basically reduce the reimbursement rate or refuse to reimburse hospitals at all, he said. It would force hospitals to absorb the costs as uncompensated care or for the transport of individuals to API. Mr. Jessee pointed out that since API has been downsized on the presumption that DET services are out there, there could be a serious problem. Where will patients be sent, he asked. As time passes and there is a demand in need, how will it be met, he asked. The Alaska Mental Health Trust Authority is very concerned. Some believe that DETs are an entitlement. Mr. Jessee said that there could be an argument that it is an entitlement for the hospitals to be reimbursed for the services it delivers, but the fact remains that the services are mandatory and not an option. This is not only a public safety issue and a health issue, he reiterated. Mr. Jessee commented that the problem could be pushed off onto API, but that is not the view of the Alaska Mental Health Trust Authority.

Number 1293

MR. JESSEE emphasized that no other community would take on DETs if after making a significant capital expenditure and operational commitment, it is found that the state may determine at some point in the year that the reimbursement rate will be slashed below the cost of care, or that the hospital will not be able to keep the patients because the department will determine that it will send the patients to API instead. Mr. Jessee told the members that he is worried about what will happen to that part of the emergency system if that part of the bill ends up going through.

Number 1247

REPRESENTATIVE CISSNA expressed concern that API has decreased in size, there is an increase in demand, and the movement of kids out of the state continues. She said that this legislature is saying that it wants the kids back in Alaska because it is expensive, it is harder to integrate the kids back into the community and their families if they aren't in Alaska. She asked if the language in the bill he discussed impacts other programs [with respect to kids].

MR. JESSEE commented that API is a very small part of the adolescent treatment system. He said that the last time he tracked the number of kids at API it was in the nine to ten

range. He said he believes API has a capacity to handle 12 kids, but said Mr. Hogan can provide the exact number. He pointed out that with 426 kids out of state, API's 12 beds does not make a material dent. Mr. Jessee pointed out that some of the DET programs around the state do take kids. Mr. Jessee told the members that the out of state placement issue isn't so much about kids who are a danger to themselves and others at a specific point in time, but are very seriously ill. These are individuals who are actually committable at this point time. He commented that the capacities the hospitals have to provide DETs could be used to provide more emergency intervention with kids. Mr. Jessee told the members that the biggest driver for sending kids out of state is the continuum of care for children, not the crisis emergency system. He added that Mr. Hogan may be able to provide more specific information on that point.

Number 1083

REPRESENTATIVE CISSNA responded that the kids she worked with at API were sent outside of Alaska because the state did not have the services for them. She asked if it isn't possible that indirectly there could be a snowball effect.

MR. JESSEE agreed with Representative Cissna. It is important to look at the entire children's services continuum of care because it is seriously under capacity to even start to deal with the kids that are currently placed outside of Alaska. He pointed out that it is not just a matter of building in-state institutions like the ones out of state. There needs to be step down services that start to move those kids back into their communities and ultimately into their homes. It is a lot easier if the kids are in state, working with in-state providers in making that transition.

MR. JESSEE summarized that it is much easier to get individuals who are in DETs back into the community and stabilized if the individual is near family, community, and a treatment provider, rather than shipping them to API. Shipping individuals to API was done for 30 years before the DET system was developed, he commented. Mr. Jessee said he understands the antipathy toward what is viewed as an entitlement program, but a hospital can provide the service and it has to be paid. He said he also understands the budgetary and philosophical issue that this presents. Mr. Jessee stated that he believes the solution is better management of the program, not management of the program through the budget. Budget management of critical mental health

care is a blunt instrument and not appropriate when dealing with this population, he told the members.

Number 0960

SHARRON LOBAUGH, National Alliance for the Mentally Ill (NAMI), testified on HB 535 and answered questions from the members. She told the members that she wants to talk about the value and need for the DETs from a personal point of view and the client's point of view. Ms. Lobaugh shared that she has a 41-year-old son who moved out of the house last year. He became ill at 15 years of age, and there was no place in Juneau to help him and he was sent out of state for two and a half years. When he came back things went pretty well for a while until he became more and more ill. There were no community services at all at that time, so she helped start community services by becoming politically active through the Alaska Mental Health Board. The community support programs and the DET facilities were a result of those efforts. She emphasized that the mentally ill can get well provided there is a lot of support in their community and that includes close to home hospitalization.

MS. LOBAUGH pointed out that the alternatives are pretty bleak. She posed a hypothetical example of an individual who lives in Petersburg and who is experiencing stressful acting out. It will be necessary for a police officer to escort the individual to Ketchikan. The person will probably be chained and handcuffed, then looked at for a while there by a doctor, then chained and handcuffed and be transported to Juneau. The same thing happens to the mentally ill if it is necessary to send the person to API, she said. Ms. Lobaugh explained that the closer the treatment is the less stigmatizing it is for the individual. This treatment is very hard on [the mentally ill]. Many of these people are living fairly normal lives today. Every now and then there will be a problem and it will be necessary for them to go to the hospital. Ms. Lobaugh emphasized that from a family point of view it is very important to have treatment options close to home. It is a great need. She told the members that she was there when API was a 180-bed facility, that is when her son spent two and a half years in API before there were medications that were appropriate to enable him to come home. It was very painful, she said. Because of the medications that came out about 15 years ago her son has not been back to API. He would not be recognized from any other person who lives and works in the community. She emphasized that mentally ill persons do get well.

Number 0784

MS. LOBAUGH said that she believes there are things in this bill that would bother families. For example, the first episode that usually occurs is when a person is a teenager. Sometimes it is hard to distinguish teenage behavior and a mentally ill person. Many times families do not have insurance because there never has been parity for mental illness. She shared that her family had a $50,000 lifetime cap. That went really fast. Just two 30 day intensive treatments in Seattle and the $50,000 cap was met. She pointed out that some of the insurance policies do not provide for any mental health care. Historically mental health treatment has always been an entitlement program because that is the way the mentally ill have been treated or discriminated [against] because the mind has always been separated from the body. Not until recently have people understood that mental illness is like any other illness and it is deserving of the same kind of equity. She emphasized the importance of moving away from state hospitals and moving toward care in many communities.

Number 0670

MS. LOBAUGH shared that she has a friend staying with her now who was gravely ill and whose condition got increasingly worse with his family situation. He was able to be admitted for 72 hours [which helped]. She explained that it is not just a situation where the person is not taking their pills. It could be that the medication is just not working. It takes a lot of time to find the right mediation and dosage. The family's point of view is that it is very important to keep evaluation and treatment right in the community where the individual lives. She commended the committee for trying to do that. Ms. Lobaugh said that she has seen families go bankrupt trying to pay the bills of their 17 year old when hospitalized. It seems unfair in our society. She urged the members to think of this as an entitlement because the state has always provided treatment for those who are disabled, or a danger to themselves and others.

CHAIR WILSON asked if there was some specific part of the bill Ms. Lobaugh wanted to address.

MS. LOBAUGH pointed to Section 5, page 4, lines [12 and 14] which says:

> (a) To receive assistance under this chapter, a patient or a patient's legal representative must apply

in writing on a form provided by the department. A patient must apply for assistance within **90** [180] days after the date of **admission to** [DISCHARGE FROM] the facility.

MS. LOBAUGH commented that she does not know of very many mentally ill people who have legal representatives. It is not provided very often. To require a patient to have that level of sophistication is very difficult.

REPRESENTATIVE CISSNA pointed to page 2, lines [18 through 20], where there is reference to a denial of financial assistance due to the lack of appropriations as not appealable under AS 47.31.007.

MS. LOBAUGH thanked Representative Cissna for pointing that out.

Number 0457

REPRESENTATIVE SEATON referred the members to page 4, lines 17 through 20, where it covers Ms. Lobaugh's concern about application for assistance. The language in this subsection covers that notification issue as follows:

(b) A patient is considered to have applied for assistance under (a) of this section if the evaluation facility or designated treatment facility notifies the department on a form provided by the department that there is good cause to believe the patient would be eligible for assistance under this chapter and

MS. LOBAUGH asked the members to defer this bill for about 25 years.

Number 0357

ROD BETIT, President, Alaska State Hospital and Nursing Home Association (ASHNA), testified in support of HB 535 and answered questions from the members. He told the members that he believes HB 535 is intended to accomplish two primary goals. The first, through Section 4, would introduce a 24-hour reporting requirement for each admission to a community hospital to facilitate co-management of the medical care of these patients. It is ASHNA's belief that is a good policy. The Department of Health and Social Services would be actively participating in determining the appropriate length of stay at a community hospital for each eligible patient. It would also

allow the department the option to order the transfer of a patient to API for extended treatment where it will be more cost effective, he commented. These decisions would be made by the department as care treatment evolves, not after the fact. The responsibility would rest with the department for any unintended consequences from the discharge or transfer decisions. If the bill implements the change in policy as he just highlighted, he said ASHNA will support it. Mr. Betit told the members that it appears to be an improvement in the process as long as there is due notice to a community hospital when coverage is being terminated, and the department determines that transfer to API would be necessary. Under this arrangement the hospitals would provide the care requested by the department for days prescribed and in return receive reimbursement at the rates in effect at the time care is given, he added. Mr. Betit admitted that this will shift care away from some regional centers to a statewide location [API], but patients will still receive care and hospitals will receive reimbursement.

Number 0239

MR. BETIT told the members that the second provision of HB 535 is a little more concerning to ASHNA. That provision would remove the entitlement provision for mental health services which would allow the department the discretion to deny care to otherwise eligible individuals for mental health services when funding is exhausted. He commented that the department has said both in this committee hearing and in the Senate Health, Education and Social Services Standing Committee that situation is not likely to happen if the department were more active in managing the patients. It could still happen if more people than expected required care or if the savings that the department anticipates are unable to be achieved through more aggressive management.

MR. BETIT stated that uncertainty on this point makes it more difficult for ASHNA to support this part of the bill because [even if funding is no longer there] community hospitals will still be receiving those patients for holding and evaluation since there is no where else to take them. It is not clear what would become of the patients if care is denied, not because the need for care is there, but because there is no money to pay for it.

MR. BETIT reminded the members that he is talking about court ordered involuntary placements with no other source of insurance to pay for it. A community hospital could not simply discharge

that patient back into the community, nor could the hospital expect to be compensated for treatment once the person's treatment was completed. He told the members that this appears to be a new unfunded mandate for community hospitals and those who fund community hospitals as a result of this change in policy.

MR. BETIT said ASHNA applauds the department's efforts to manage programs more carefully in the face of very tight revenues. However, ASHNA believes this must be done to ensure that there are no unintended adverse financial consequences in already strained community budgets, he said. Mr. Betit suggested that before the committee advances the HB 535, ASHNA be given an opportunity to work with the department on this bill and hopefully come to an agreement on how these situations would work if the department runs out of money.

Number 0066

REPRESENTATIVE CISSNA said that she believes the state needs to do a better job of supporting the systems that are in place. She asked Mr. Betit if these changes could jeopardize the existence of some community hospitals.

MR. BETIT agreed that this bill could jeopardize the existence of some community hospitals if it became a significant threat to their financial viability.

**TAPE 04-23, SIDE A**
Number 0058

MR. BETIT added that he has a lot of personal experience with the mental health system and ran the public mental health system in Utah. He told the members that he has a sister who has a very serious mental disorder. She is living independently now with her two children because of what was done to the system in Utah to get her out of the hospital and into the community. The hospital piece is critical in the beginning, but it is essential that the hospital not be the only place for an individual to go to rescue an individual when he/she runs into trouble. It is important to work with the mentally ill and follow-up [with care as the individuals go back to the community]. Mr. Betit said there are considerable things that could be done to strengthen the system. He admitted the challenges are greater in Alaska because the distances are greater, but the treatment of this population is similar.

Number 0084

REPRESENTATIVE COGHILL commented that the legislature is caught between the devil and the deep blue sea because of the state's struggle with [funding]. He asked if ASHNA has seen any billing difficulties presently.

Number 0150

MR. BETIT replied that he is not aware of any difficulties. None have been brought to his attention at this time.

REPRESENTATIVE COGHILL said:

> In allowing this discretion, given the numbers of patients that is on the list of summaries of hospitals only, we are talking probably somewhere around 500 patients, I would think throughout Alaska. If API gets overloaded, and under this circumstance, would it have any chilling effect to you on using the beds in the regional areas if we put the "shall" in here.

MR. BETIT questioned inserting "shall" in [the bill]. In response to Representative Coghill's clarification that "may" would be inserted, not "shall". He responded that it would [have a chilling effect] because the care would still have to be given. This care would have to be provided without potential reimbursement, he emphasized.

Number 0207

REPRESENTATIVE SEATON asked for clarification that these involuntary commitments are to hospitals that are already facilities established for these commitments.

MR. BETIT responded that there are nine facilities in the state that could potentially take those placements for immediate short-term care. He commented that any hospital is a potential location for an individual to be dropped off by law enforcement or courts if there is a crisis. There simply are not many good places where an individual can be taken, even if it is not a secure unit, to receive immediate medical care. The hospital can rule out that there are not other things that might be going on that might be causing that medical crisis. Then the hospital begins the steps to get the patient to the closest place possible to get him/her into the appropriate psychiatric

treatment. Mr. Betit said that hospitals are the first place individuals go when there is a crisis.

REPRESENTATIVE SEATON asked if a court rules that an individual must be involuntarily [committed] and there are no secure facilities available, would the person would be held in jail.

Number 0331

MR. BETIT responded that he does not know the Alaska mental health system well enough to answer that question, and suggested that someone from the department would be better prepared to respond.

Number 0350

CHAIR WILSON shared her experience as a nurse at the hospital in Wrangell. She explained that there were times when a patient was admitted, even though there were no secure facilities, because the weather prevented the person from being transported. In this event the hospital had to hire a person to attend the individual 24 hours a day to ensure the individual would not harm himself, herself, or anyone else. She reiterated that the hospital must deal with the individual until transportation to a secure facility is possible.

Number 0477

RICHARD RAINERY, Executive Director, Alaska Mental Health Board, testified on HB 535 and answered questions from the members. He told the members that many of the points that concern the board have already been discussed. However, one point he did not hear and wanted to make is that the DET program serves only indigent individuals who have no other payment resources.

MR. RAINERY told the members that the Alaska Mental Health Board supports the management tools provided in Sections 1, 4, and 5 of the bill. He said he believes these are appropriate. In theory these tools could allow for more efficient use of the program resources which should extend to allow the program to be expanded to other communities and serve additional folks.

MR. RAINERY spoke to the philosophical differences the board has with the department making the payment obligation discretionary. The board believes that conflicts with several fundamental principles which are articulated in Alaska Statutes under 47.36.55. Those principles have already been referred to in

earlier testimony. Services should be available as close to home as possible and in the least restrictive setting, he said. These principles were developed as part of a community consensus process. Mr. Rainery commented that if the department plans to move away from this consensus, as this bill does, it is hoped that it will be done through a new community consensus process.

Number 0552

MR. RAINERY expressed the board's agreement with the governor that the current fiscal situation is a problem. The board distributed a resolution to all members of the legislature supporting the development of a fiscal plan for the state that does provide adequate resources for essential services that protect the health of vulnerable Alaskans.

MR. RAINERY asked how many people, based on historical data and trends, might end up being denied services if the bill were adopted. He said he believes Mr. Hogan is speaking in good faith when he says that it is not the department's intent that anyone would be denied services. However, there is a fear that could be the outcome, he said. The default referral, when a local hospital opts not to take a particular patient because it knows or fears that it will not be paid, is API. This will include additional transportation costs and it will impact API's budget and ability to provide other services. As has been noted earlier, API is on the verge of being downsized, he added. Mr. Rainery said he believes it is incongruous to restrict access to the community service that most directly diverts folks from API at a time when API's resources will be diverted. The board believes that any savings developed from improved management of the program should be put back into the program to allow more folks to be served or to expand the program to other communities, such as Anchorage or the valley.

MR. RAINERY pointed out that other than the one anomalous year at Bartlett Hospital, the average time for individuals in DET facilities in Fairbanks and Juneau is about 5 to 6 days. The board does not believe this level of seriousness merits consignment of those folks to API. He commented that API should only be dealing with the most complex folks who are beyond the capacity of local community hospitals to deal with. In summary, the board agrees with the management tools the bill calls for, but does not agree with converting the program to a discretionary obligation on the part of the state.

Number 0785

REPRESENTATIVE CISSNA commented that she is aware of the long process that has been undertaken to ensure cost savings and high effectiveness. She asked Mr. Rainery if he believes this bill would effect long-term costs.

MR. RAINERY responded that there are two sides to the issue. The board's primary responsibility is to represent the best interests of Alaskans with mental illness. The initial determination was that the best interests were served by having local services that are less restrictive than API. He said at this point there is a lack of clarity of the long-term cost implications. With API being downsized the possible increased patient load is going to have an effect on its cost structure and the other elements such as transportation. There are no clear comparison between local costs and API costs, so it is difficult to respond definitively to Representative Cissna's question, he summarized.

REPRESENTATIVE CISSNA asked if other states that have implemented community-based programs have demonstrated its cost effectiveness.

MR. RAINERY asked for clarification that Representative Cissna is talking about in-patient programs. In response to her affirmative response, he said it is generally accepted wisdom that in-patient programs are the most expensive. The issue with local hospitals is two fold. It is a restrictive issue and from a consumer's point of view, it is one of stigma. Going to API involves a level of stigma that is not an issue when an individual goes to a community hospital for care. Mr. Rainery commented that there is a balancing act between the costs and the appropriate way to treat a person. There are a variety of options that have not been implemented. These involve more intensive community-based services than are on the books now. He noted that these are less expensive [options] than in-patient options.

Number 0989

REPRESENTATIVE COGHILL commented that this is a tough issue because this deals at the safety net level. He referred to Section 3 which discusses eligibility for assistance and asked if the board will step up to addressing the economic issue. There needs to be shared resources by both the state and the board. He asked Mr. Rainery if the board has discussed this.

Number 1055

MR. RAINERY replied that the board has not directly addressed that issue. For twelve years, the API downsizing and appropriate community system of care to support API has been the board's number one priority. There have been many calculations on what the fiscal arrangements need to be. Unfortunately, the environment and administrations have changed over time so what was viewed as the ideal arrangement of resources at one time is something that the board must now reconsider. He agreed with Representative Coghill that this is a safety net level of resource.

REPRESENTATIVE COGHILL suggested that the bill be held for another discussion on the safety net issue and the ability to meet the needs of these individuals. He commented that the bill needs to be amended and hopes the board will commit to working on these issues.

MR. RAINERY replied that he does not endorse Ms. Lobaugh's suggestion that the bill be held for 25 years. He does support giving improved management tools to the department a chance to work to see how that effects the expenditures under the program for a year or two.

Number 1238

CHAIR WILSON asked Mr. Hogan to describe how the new process would work. How is that different than the way it works now. What happens when an event occurs on the weekend.

MR. HOGAN explained that the current process provides that the hospital has up to six months after the provision of service to submit a bill to us. He commented that at this time the department does not even know if there is someone in a facility receiving treatment. This bill would mandate that the hospital notify the department within 24 hours to essentially register the patient. This would begin the process of working collaboratively with the hospital. Mr. Hogan said the department plans to stipulate in administrative code that the department would use First Health Services Corporation who currently provides utilization review services for Medicaid recipients with mental health problems. It is thought that the department would use First Health Services Corporation as a first step in addressing the weekend issue because the department does not have staff available 24 hours per day, 7 days per week.

Number 1298

CHAIR WILSON asked if he believes API has enough beds so there will not be a concern.

MR. HOGAN responded that there is agreement on the importance of community-based services. This is a critical, essential service to the system. The department will go to great lengths to better manage the program to ensure that if at all possible the service is available in communities throughout Alaska. In a worse case scenario an individual would have to go to API. There has been testimony that API is down sizing with only 72 beds. There have been times in the past when API has exceeded its capacity and there will be times in the future it could exceed capacity. That is not a desirable situation, he said.

CHAIR WILSON commented that in the past when there was not enough money, the additional required funds were requested in a supplemental [appropriations bill]. Why can't it continue to be handled that way, she asked.

Number 1368

MR. HOGAN told the members that this approach has been discussed with Commissioner Joel Gilbertson of the Department of Health and Social Services. He has indicated that within the department if there are programs or services where there might be additional money that is not expended he is committed to diverting those dollars to mental health services if it is at all possible. Commissioner Gilbertson has said that if this is not the case, at this point he is not willing to seek a supplemental appropriation.

Number 1400

CHAIR WILSON announced that the bill will be held in committee indefinitely. She commented that there is a policy decision that needs to be made. The state does not like it when the federal government issues unfunded mandates to the state. She said she sees this as an unfunded mandate to community hospitals. She believes the committee needs to move very carefully because the state has a responsibility to these very fragile people who need care.

CHAIR WILSON strongly suggested that the three different entities [the hospitals, the Department of Health and Social

Services, and the Alaska Mental Health Board] work independently to come up with some recommendations on this issue. After working independently, she asked that they then get together to see if some kind of agreement can be reached.

CHAIR WILSON stated that she also wants to know the procedure that First Health will follow in the decision-making process. She said her concern lies with the fact that First Health is not the psychiatrist or the doctor that is involved with the patient. Chair Wilson went on to say that she wants to know not only how the three entities will be involved, but also how First Health is involved.

CHAIR WILSON stated that she wants to feel comfortable with the process. She explained that she can foresee that if there is not great care given, there will be people who will fall through the cracks. For example, there was an incident that occurred in Anchorage not too long ago where a mother did something because she did not have the correct medication. Chair Wilson emphasized that she does not want to go home in May, and find that something has happen without the knowledge that the legislature did everything it could to make sure that what is being done is the right thing. She summarized that she understands that this will not be an easy task, but hopes that this can be worked out.

Number 1559

REPRESENTATIVE SEATON said Denali Kid Care [eligibility] is set at 175 percent of poverty. This bill allows for 185 percent of poverty. He said he would like a discussion on these differences and what the effect is.

**ADJOURNMENT**

There being no further business before the committee, the House Health, Education and Social Services Standing Committee meeting was adjourned at 5:08 p.m.