

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

April 5, 2004

2:08 p.m.

TAPE (S) 04-19

**MEMBERS PRESENT**

Senator Fred Dyson, Chair  
Senator Lyda Green, Vice Chair  
Senator Gary Wilken  
Senator Bettye Davis  
Senator Gretchen Guess

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

CONFIRMATION HEARING(S)

Occupational Safety and Health Review Board:

Thor R. Christianson

Board of Dental Examiners:

Mary Ann Cerney  
Dr. Arne R. Pihl

State Medical Board:

Dr. Robert A. Breffeilh  
Dr. John T. Duddy  
Dr. G. Bert Flaming  
Dr. David M. Head  
Michael J. Tauriainen

Board of Certified Direct-Entry Midwives:

Dr. Mark E. Richey

Board of Nursing:

Patricia M. Swenson

Board of Pharmacy:

Cindy Bueler  
Captain Gary M. Givens  
Michael Pauley

CONFIRMATIONS ADVANCED

SENATE BILL NO. 243

"An Act relating to immunization of postsecondary students for meningitis; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 385

"An Act relating to homeland security, to civil defense, to emergencies and to disasters, including disasters in the event of attacks, outbreaks of disease, or threats of attack or outbreak of disease; establishing the Alaska division of homeland security and emergency management in the Department of Military and Veterans' Affairs and relating to the functions of that division and that department; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 222

"An Act requiring certain hospitals to make certain disclosures on patient billings."

HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 243

SHORT TITLE: POSTSECONDARY STUDENT IMMUNIZATION

SPONSOR(s): SENATOR(s) ELTON

01/12/04	(S)	PREFILE RELEASED 1/2/04
01/12/04	(S)	READ THE FIRST TIME - REFERRALS
01/12/04	(S)	HES
04/05/04	(S)	HES AT 1:30 PM BUTROVICH 205

BILL: SB 385

SHORT TITLE: SECURITY;DIV. HOMELAND SECURITY/EMER. MGT

SPONSOR(s): HEALTH, EDUCATION & SOCIAL SERVICES

04/05/04	(S)	READ THE FIRST TIME - REFERRALS
04/05/04	(S)	HES, FIN
04/05/04	(S)	HES AT 1:30 PM BUTROVICH 205

BILL: SB 222

SHORT TITLE: MEDICAL PATIENT BILLING DISCLOSURES  
SPONSOR(s): SENATOR(s) DYSON

05/14/03 (S) READ THE FIRST TIME - REFERRALS  
05/14/03 (S) HES, L&C  
04/05/04 (S) HES AT 1:30 PM BUTROVICH 205

**WITNESS REGISTER**

DR. ROBERT BREFFEILH  
Juneau, Alaska

**POSITION STATEMENT:** Confirmation Hearing, candidate for State Medical Board.

CAPTAIN GARY GIVENS  
Eagle, River, Alaska

**POSITION STATEMENT:** Confirmation Hearing, candidate for Board of Pharmacy.

MR. THOR CHRISTIANSON  
Sitka, Alaska

**POSITION STATEMENT:** Confirmation Hearing, candidate for Occupational Safety and Health Review Board.

MS. MARY ANN CERNEY  
Fairbanks, Alaska

**POSITION STATEMENT:** Confirmation Hearing, candidate for Board of Dental Examiners.

DR. JOHN DUDDY  
Anchorage, Alaska

**POSITION STATEMENT:** Confirmation Hearing, candidate for State Medical Board.

MR. MICHAEL TAURIAINEN  
Soldotna, Alaska

**POSITION STATEMENT:** Confirmation Hearing, candidate for State Medical Board.

DR. DAVID HEAD  
Nome, Alaska

**POSITION STATEMENT:** Confirmation Hearing, candidate for State Medical Board.

MS. PATRICIA SWENSON  
Anchorage, Alaska

**POSITION STATEMENT:** Confirmation Hearing, candidate for Board of Nursing.

SENATOR KIM ELTON  
Alaska State Capitol  
Juneau, AK 99801-1182

**POSITION STATEMENT:** Presented sponsor statement for SB 243.

MR. DAVID LIEBERSBACH  
Acting Assistant Commissioner  
Office of Homeland Security and Emergency Management;  
Director of Alaska Division of Emergency Services,  
Department of Military & Veterans Affairs  
PO Box 5800  
Ft. Richardson, AK 99505-0800

**POSITION STATEMENT:** Presented SB 385.

MR. WES KELLER  
Staff to Chair Dyson  
Alaska State Capitol  
Juneau, AK 99801-1182

**POSITION STATEMENT:** Answered a question pertaining to SB 385.

MR. JOHN CRAMER  
Director, Division of Administrative Services  
Department of Military & Veterans Affairs  
PO Box 5800  
Ft. Richardson, AK 99505-0800

**POSITION STATEMENT:** Answered questions pertaining to SB 385.

MR. AL STOREY  
Division of Alaska State Troopers  
Department of Public Safety  
3700 East Tudor Road  
Anchorage, Alaska 99507

**POSITION STATEMENT:** Testified they had not analyzed SB 385 yet.

#### **ACTION NARRATIVE**

#### **TAPE 04-19, SIDE A**

**CHAIR FRED DYSON** called the Senate Health, Education and Social Services Standing Committee meeting to order at 2:08 p.m. Present at the call to order were Senators Green, Wilken, Guess, and Chair Dyson. Senator Davis arrived while the meeting was in progress. Also present was Senator Elton.

CONFIRMATION HEARINGS

Occupational Safety and Health Review Board:  
Thor R. Christianson

Board of Dental Examiners:  
Mary Ann Cerney  
Dr. Arne R. Pihl

State Medical Board:  
Dr. Robert A. Breffeilh  
Dr. John T. Duddy  
Dr. G. Bert Flaming  
Dr. David M. Head  
Michael J. Tauriainen

Board of Certified Direct-Entry Midwives:  
Dr. Mark E. Richey

Board of Nursing:  
Patricia M. Swenson

Board of Pharmacy:  
Cindy Bueler  
Captain Gary M. Givens  
Michael Pauley

CHAIR DYSON asked Dr. Breffeilh if he wanted to continue serving on the State Medical Board.

DR. ROBERT BREFFEILH confirmed this was correct.

CHAIR DYSON asked Captain Givens why he wanted to serve on the Board of Pharmacy.

CAPTAIN GARY GIVENS testified from Anchorage that he has been on the Board of Pharmacy since March, was on the Pharmacy Association committee for six years, and his interest is in the pharmacy affairs in the state, in protecting public safety, and being active in the community.

CHAIR DYSON asked Mr. Christianson why he wanted to serve on the Occupational Health and Safety Board.

MR. THOR CHRISTIANSON responded he was involved with the seafood business for a number of years and is now in the EMS field, which emphasizes injury prevention. This board looks

interesting, and he feels he could help with different aspects of safety issues.

CHAIR DYSON asked Ms. Cerney why she was interested in being on the Board of Dental Examiners.

MS. MARY ANN CERNEY said she has served for five years and is interested in serving in a profession in which she is fairly well versed. She confirmed she was living and working in Fairbanks.

CHAIR DYSON asked Dr. Duddy where he was practicing, and why he wanted to serve on the State Medical Board.

DR. JOHN DUDDY responded he was in private practice in Anchorage and wanted to give back to the community and help to ensure there were good practicing physicians within the state.

CHAIR DYSON asked Mr. Tauriainen why he wanted to serve on the State Medical Board.

MR. MICHAEL TAURIAINEN replied he is a civil engineer, and was appointed to be the public member. His interest stems from his philosophy that less is better than more regulation, and also in those regulations being applied fairly. He said he has been serving in an appointed role since August of 2003.

SENATOR GRETCHEN GUESS asked how he judges, not just the number, but also the quality of regulations.

MR. TAURIAINEN said he was impressed with the free market system to sort things out. By not restricting the market or limiting the value of competition, there are new techniques, procedures, and equipment.

SENATOR GUESS asked if he considers safety within that evaluation mechanism, regarding ensuring competition.

MR. TAURIAINEN said certainly.

CHAIR DYSON asked Dr. Head why he wanted to serve on the State Medical Board.

DR. DAVID HEAD responded this was his second term, and he enjoys interactions with other members on the board and physicians in the state. He also mentioned he has experience in Bush Alaska.

CHAIR DYSON asked Ms. Swenson why she wanted to serve on the Board of Nursing.

MS. PATRICIA SWENSON responded she wanted to serve on the board for many years and believes in giving back to the state. Serving on boards has been difficult in the past due to her irregular work schedule and family responsibilities, but she could now fulfill board responsibilities. She allowed her nursing license to lapse about ten years ago because she didn't plan on returning to the profession. After finding there were public members on the board, she checked with the ethics attorney for the state and was told this position on the board would not be a conflict. Her background in nursing, legislative experience, and on the Alaska Workforce Investment Board allows her to approach the board's issues from different points of view.

MS. SWENSON told members she received a letter from the Alaska Nurses Association (ANA) via the Governor's office. She noted she had not received the letter from the ANA and it was unfortunate they did not speak with her before sending that letter. She believes ANA does not understand her function for the Alaska Workforce Investment Board, and assumptions have been made regarding her employment that are not true. Despite her designation as a project coordinator and its description according to "Workplace, Alaska," her duties and responsibilities are far different. She is a staff member to that board and as such, functions as a facilitator, staffs committees, does community outreach, attends meetings, gathers and disperses information, and so forth.

2:25 p.m.

MS. SWENSON continued that she interfaces with the University of Alaska, ASHNA [Alaska State Hospital and Nursing Home], Native Healthcare Corporations, Alaska Work Partnership, local unions, members of the hospitality industry, and so forth. She does not design educational programs or review grant applications, and was not involved with the design or implementation of programs that will come before the Board of Nursing. She said she does not write grants or receive the administration of grants and does not assist agencies with the writing of proposals or with subsequent technical assistance. She said specific personnel are hired for those jobs. She has never had any sway about who or who does not get money. ANA cites ASHNA's nursing preceptor program as a program she was involved with; those grants were funded before she was employed by DOL, she stated, and her

presumption is those funds would continue because ASHNA writes good proposals that provide needed services.

MS. SWENSON continued she has not been actively involved in developing a grant for an apprenticeship model for nursing. The U.S. DOL office of apprenticeship would be in charge of money and curriculum development of such a program. An apprenticeship model of nursing - RNs or LPNs - is not a viable option, and the University is doing a great job of creating healthcare programs for both urban and rural areas so neither the Alaska DOL or U.S. DOL needs to become involved. The DOL has a strict process for scoring grant proposals, and she stated she has never sat on such a review committee.

CHAIR DYSON noted she hasn't practiced nursing since 1986.

MS. SWENSON confirmed she hasn't been practicing for quite some time, and had let her nursing license go about ten years ago.

SENATOR GUESS referred to ANA's letter [March 23, 2004, attention Senator Dyson] and asked about the perceived conflict of interest and how that may reflect on the board and on this administration.

MS. SWENSON said she did not perceive a conflict of interest; she was involved in a "totally different aspect of what goes on here." Even though she attends meetings, so does the ANA. She mentioned there have been public board members in the past receiving direct remuneration from healthcare entities; the person who was the public member before her worked for public health in Barrow, and was paid by a healthcare corporation. She said she doesn't receive money from anybody, and most people think it's a good idea for her to be on the board.

CHAIR DYSON said generally, regarding boards dealing with technical and sophisticated topics, the public member, as a consumer or interested citizen, can present a different perspective. He asked if her years of professional experience and training would limit her ability to serve as a public member.

MS. SWENSON said no, her years of nursing were just one part of her broader perspective.

SENATOR LYDA GREEN moved to forward the names of the candidates to the larger body for confirmation. [This includes all names listed above.]

CHAIR DYSON asked if there was any objection. Seeing and hearing none, it was so ordered.

2:43 p.m.

**SB 243-POSTSECONDARY STUDENT IMMUNIZATION**

The committee took up SB 243.

CHAIR DYSON noted that Senator Davis had joined the meeting approximately 10 minutes ago.

SENATOR KIM ELTON, sponsor of the bill, provided the sponsor statement, saying SB 243 addresses postsecondary educational institutions in Alaska notifying students of the dangers of this type of meningitis. This is a potentially fatal bacterial infection that most commonly attacks the brain and spinal cord or presents as a bacteria in the blood. It can result in permanent brain damage, hearing loss, learning disability, organ failure, loss of limbs, and sometimes death. Twenty-six hundred people contract this disease each year, and about 10 to 15 percent die from the disease. College students, especially freshmen living in dormitories, have been found to be at-risk and are six times more likely to contract this type of meningitis. The Center for Disease Control and Prevention (CDC) recommend that all college students, particularly freshmen living in dormitories, learn more about the disease and consider vaccination.

SENATOR ELTON continued that SB 243 doesn't mandate vaccination but provides that Alaskan postsecondary institutions notify students planning to reside on campus housing, of the risk. Students would be required to sign a document provided by the institution, indicating they have received an immunization or have received a notice of the information regarding immunization. The bill is not unusual; it is the same bill that's been presented in 23 other states that either have pending or adopted the legislation.

CHAIR DYSON asked if there was a fiscal note.

SENATOR ELTON replied postsecondary education had a zero fiscal note. He explained this would be additional information attached to already existing information - probably on the same page - requiring a potential student to notify the institution that he/she has been immunized or had received the information.

CHAIR DYSON said before acting on the bill, he wanted to hear from the administration.

SENATOR GREEN asked if there were additional diseases - other than meningitis - on campus environments that have caused this level of concern.

SENATOR ELTON said he would check on this but meningitis was the one that the CDC brought to the attention of states and higher education institutions.

SENATOR GREEN asked if this issue required legislation.

SENATOR ELTON said probably not. If postsecondary education wanted to proceed, nothing would restrict that; this bill is based on model legislation adopted in other states.

CHAIR DYSON asked if there was information from Alaska's university system in the packet.

SENATOR ELTON said the information was from CDC and other sources.

CHAIR DYSON said he would appreciate information from the university administration and also from the state's public health or disease control office.

SENATOR ELTON mentioned that conversations had already been held with university lobbyists.

CHAIR DYSON said he would like knowing that the university supports, or at least does not have a problem with SB 243. He announced the bill would be held until that additional information was obtained.

1:40 p.m.

#### **SB 222-MEDICAL PATIENT BILLING DISCLOSURES**

The committee took up SB 222.

CHAIR DYSON introduced SB 222, saying that hospitals in particular, have a multi-tiered billing system, and if a person is a self-payor, he/she pays 100 percent while the larger third-party payers negotiate discounts at a minimum of 30 percent. This rewards irresponsible behavior and encourages folks to not

take responsibility for their own healthcare; those with Medicaid/Medicare often do not pay anything. Every medical hospital in the nation has a number of services for which they do not recover cost, and those costs gets shifted to those paying their own bills. SB 222 requires, if state funding is received, that the discount rates be published. It also requires hospitals to reveal information such as "how much of your bill was a subsidy for indigent people, with the goal in mind that you'd be able to use that as a charitable gift on your income tax."

CHAIR DYSON referred to a proposed committee substitute (CS) pertaining to supplies not exceeding reasonable costs over the street value, with the desire being to "shine some daylight on the processes that are going on."

CHAIR DYSON announced that SB 222 would be held in committee for future consideration.

2:45 p.m.

**SB 385-SECURITY;DIV. HOMELAND SECURITY/EMER. MGT**

The committee took up SB 385.

CHAIR DYSON said he understands that in response to terrorism threats, the governor has issued an executive proclamation to coordinate activities, the administration has prepared a house bill, and the HES committee has sponsored SB 385.

MR. DAVID LIEBERSBACH, acting assistant commissioner for the Office of Homeland Security and Emergency Management, and Director of the Alaska Division of Emergency Services within the Department of Military and Veteran's Affairs, testified that the primary purpose of SB 385 is to revise AS 26.20, a statute enacted in 1951, and to update it to reflect the current situation with homeland security. For the most part, "civil defense" references in existing statute will now reflect "homeland security and civil defense." This bill is not related to the federal Patriot Act, but is a result of Alaska needing to include homeland security. Mr. Liebersbach explained SB 385 would consolidate the Division of Homeland Security and Division of Emergency Services, and eliminate the position of assistant commissioner (his position); there would be one instead of two directors. There is a zero fiscal note, and if successful, \$100,000 would be given back.

MR. LIEBERSBACH referenced AS 26.20, and said SB 385 would repeal obsolete provisions, and gave the following examples: 1)

authorizing the establishment of local organizations for civil defense, with authority to issue orders and adopt regulations; 2) giving civil defense orders and regulations adopted by the governor, DMVA, local districts, and other authorized agencies, the "effect of law;" 3) automatically suspending conflicting laws, ordinances or regulations; 4) directing the federal government and local law enforcement to enforce civil defense orders and regulations; and 5) prohibiting civil defense organizations from participating in any form of political activity. SB 385 would also formalize the combining of personnel from the Division of Emergency Services and DMVA; Alaska's homeland security issues will be coordinated by the DMVA.

CHAIR DYSON noted that concerns have been expressed by other divisions/departments such as DPS, DEC, and [DOT&PF], and asked Mr. Liebersbach to comment.

MR. LIEBERSBACH replied the solutions to those concerns have been incorporated into the final draft of SB 385. "Direct" has been modified to "coordinate," so that DMVA will not be directing personnel of other agencies without expressed authorization for delegation by the governor, as "these departments are all directed by the governor." There was also concern about DPS authority to establish roadblocks. DMVA will only assist in manning or taking care of roadblocks in consultation with DOT&PF and DPS. There are instances where National Guard personnel or state defense forces can staff roadblocks, since troopers don't have that capability. During the holiday season in Valdez, this was done to provide personnel to staff roadblocks during a heightened security situation.

CHAIR DYSON asked Mr. Liebersbach about other concerns DPS might have.

**TAPE 04-19, SIDE B**

CHAIR DYSON asked if DPS was aware of the meeting today.

MR. WES KELLER, staff to Chair Dyson, responded DPS was aware of this meeting; he was not sure if [DOT&PF] was aware of the meeting.

MR. LIEBERSBACH said concerns of DEC, DOT&PF, and DPS were with the oversight of homeland security planning, and the directing of plans by those agencies. That language was revised to "coordinating the plans" rather than "directing them."

CHAIR DYSON referred to the deletion of "districts of the state," and asked if this was in reference to judicial districts.

MR. LIEBERSBACH said he didn't know but would find out. Every agency of the state has districts or regions that are different; they recognize political subdivisions and local political authority. He said he didn't know of existing civil defense districts currently in use.

CHAIR DYSON referenced p.2, lines 26 and 27, and considered including British Columbia (B.C.) and the Yukon Territory, but said this may already be covered in paragraph (3). He asked about Mr. Liebersbach's reference to training a state defense force to be military police. At the end of that process, if the governor declares an emergency, some police powers - such as arrest - would be involved; he asked if this was correct.

MR. JOHN CRAMER, Director, Division of Administrative Services, Department of Military and Veteran's Affairs, said he believes the volunteers would not have arresting powers, but would be utilized and activated during times of disaster or crises. The training process includes a military police-type academy, and at the end of that training, they are considered to be constables.

MR. LIEBERSBACH added that before being certified, there is orientation and oversight from the state troopers. Generally those people work in conjunction with either local or state law enforcement so someone from those agencies is supporting or working with them.

CHAIR DYSON asked about concern that this had an intrusive Patriot Act aspect.

MR. CRAMER explained that earlier iterations of HB 185 (from last year) included provisions in proposed language that would have allowed the Division of Homeland Security to exercise certain powers. Some of those had to do with confiscating certain assets or equipment; that language has been taken out of the bill.

CHAIR DYSON asked if there was a provision in state law, or this bill, providing that if equipment in private ownership is needed, it could be commandeered for public purpose for a period of time.

MR. CRAMER said he believes that assumption is correct, that existing law allows for the state, in certain instances, to acquire personal property, and there must be fair compensation for its use. He said he didn't believe this was included in this legislation.

CHAIR DYSON read from page 7, line 29, as follows: "plan and make arrangements for the availability and use of private facilities, services, and property and, if necessary..." and asked if "property" included, not only real estate, but also an airplane, boat, or dump truck. He suggested possibly defining "property" to include other useful equipment. He also suggested that - throughout the bill - the use of "coordination" of federal, state, local and private agencies, also include cross-border coordination, "to work with our neighbors."

MR. LIEBERSBACH said under AS 26.23, the governor has authority to enter into compacts with other states and bordering provinces. Under that authority, recognized by the U.S. Congress, Alaska entered into a compact with the Yukon Territory, British Columbia, Washington, Oregon, and Idaho, for exactly this type of work. He added, "We could bring that forward."

CHAIR DYSON said, "Only if you think it is necessary." He noted Idaho and Montana have been working with B.C. and Alberta and have addressed practicalities such as firefighting equipment, air fuel capacity, equipment and personnel compatibility, and border crossing documentation.

MR. LIEBERSBACH said a homeland security exercise was already scheduled for September with the Yukon Territory, but they could look into this issue further.

CHAIR DYSON announced SB 385 would be held in committee until Wednesday.

MR. AL STOREY, Division of State Troopers, testified they had not yet seen a copy of SB 385, and would get back with the committee later in the week.

CHAIR DYSON asked that the commissioner be notified that most of his concerns had been addressed.

There being no further business to come before the committee, he adjourned the meeting at 3:12 p.m.