

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

April 26, 2004

8:06 a.m.

TAPE(S) 04-42

MEMBERS PRESENT

Senator Ralph Seekins, Chair
Senator Scott Ogan, Vice Chair
Senator Hollis French

MEMBERS ABSENT

Senator Gene Therriault
Senator Johnny Ellis

COMMITTEE CALENDAR

SENATE BILL NO. 388

"An Act relating to the creation of a civil legal services fund."

MOVED SB 388 OUT OF COMMITTEE

HOUSE BILL NO. 188

"An Act relating to the authority of the Department of Natural Resources to issue citations for certain skiing violations; relating to establishing a bail schedule for certain skiing violations and to procedures for issuing a citation for a skiing violation."

HEARD AND HELD

CS FOR HOUSE BILL NO. 25(JUD)

"An Act relating to health care decisions, including do not resuscitate orders, anatomical gifts, and mental health treatment decisions, and to powers of attorney relating to health care, including anatomical gifts and mental health treatment decisions; and providing for an effective date."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 388

SHORT TITLE: CIVIL LEGAL SERVICES FUND

SPONSOR(S): JUDICIARY BY REQUEST

04/15/04 (S) READ THE FIRST TIME - REFERRALS
04/15/04 (S) JUD, FIN
04/26/04 (S) JUD AT 8:00 AM BUTROVICH 205

BILL: HB 188

SHORT TITLE: BAIL SCHEDULE FOR SKIING VIOLATION

SPONSOR(S): REPRESENTATIVE(S) HAWKER

03/12/03 (H) READ THE FIRST TIME - REFERRALS
03/12/03 (H) RES, STA
02/25/04 (H) RES AT 1:00 PM CAPITOL 124
02/25/04 (H) Moved Out of Committee
02/25/04 (H) MINUTE(RES)
02/26/04 (H) RES RPT 5DP 2NR 1AM
02/26/04 (H) DP: HEINZE, LYNN, KERTTULA, MASEK,
02/26/04 (H) DAHLSTROM; NR: STEPOVICH, GUTTENBERG;
02/26/04 (H) AM: GATTO
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)
03/24/04 (H) STA RPT 2DP 1DNP 4NR
03/24/04 (H) DP: COGHILL, WEYHRAUCH; DNP: HOLM;
03/24/04 (H) NR: SEATON, GRUENBERG, LYNN, BERKOWITZ
04/14/04 (H) TRANSMITTED TO (S)
04/14/04 (H) VERSION: HB 188
04/15/04 (S) READ THE FIRST TIME - REFERRALS
04/15/04 (S) JUD
04/26/04 (S) JUD AT 8:00 AM BUTROVICH 205

BILL: HB 25

SHORT TITLE: HEALTH CARE SERVICES DIRECTIVES

SPONSOR(S): REPRESENTATIVE(S) WEYHRAUCH

01/21/03 (H) PREFILE RELEASED (1/10/03)
01/21/03 (H) READ THE FIRST TIME - REFERRALS
01/21/03 (H) HES, JUD, FIN
02/13/03 (H) HES AT 3:00 PM CAPITOL 106
02/13/03 (H) Heard & Held
02/13/03 (H) MINUTE (HES)
02/27/03 (H) HES AT 3:00 PM CAPITOL 106
02/27/03 (H) Heard & Held
02/27/03 (H) MINUTE (HES)
03/06/03 (H) HES AT 3:00 PM CAPITOL 106
03/06/03 (H) Moved CSHB 25(HES) Out of Committee
03/06/03 (H) MINUTE (HES)
03/10/03 (H) HES RPT CS(HES) NT 7DP
03/10/03 (H) DP: GATTO, WOLF, HEINZE, SEATON,

03/10/03 (H) CISSNA, KAPSNER, WILSON
 03/26/03 (H) JUD AT 1:00 PM CAPITOL 120
 03/26/03 (H) -- Meeting Canceled --
 03/28/03 (H) JUD AT 1:00 PM CAPITOL 120
 03/28/03 (H) Heard & Held
 03/28/03 (H) MINUTE (JUD)
 03/31/03 (H) JUD AT 1:00 PM CAPITOL 120
 03/31/03 (H) Moved CSHB 25(JUD) Out of Committee
 03/31/03 (H) MINUTE (JUD)
 04/07/03 (H) JUD RPT CS(JUD) NT 5DP
 04/07/03 (H) DP: SAMUELS, HOLM, GARA, OGG, MCGUIRE
 04/07/03 (H) FIN REFERRAL WAIVED
 05/06/03 (H) TRANSMITTED TO (S)
 05/06/03 (H) VERSION: CSHB 25(JUD)
 05/07/03 (S) READ THE FIRST TIME - REFERRALS
 05/07/03 (S) HES, JUD
 05/16/03 (S) HES AT 1:30 PM BUTROVICH 205
 05/16/03 (S) Heard & Held
 05/16/03 (S) MINUTE (HES)
 03/08/04 (S) HES AT 1:30 PM BUTROVICH 205
 03/08/04 (S) Heard & Held
 03/08/04 (S) MINUTE (HES)
 03/24/04 (S) HES AT 1:30 PM BUTROVICH 205
 03/24/04 (S) Heard & Held
 03/24/04 (S) MINUTE (HES)
 04/02/04 (S) HES AT 1:30 PM BUTROVICH 205
 04/02/04 (S) Bill Postponed to 04/07/04
 04/07/04 (S) HES AT 1:30 PM BUTROVICH 205
 04/07/04 (S) -- Rescheduled to 5:30 pm 04/07/04 --
 04/07/04 (S) HES AT 5:30 PM BUTROVICH 205
 04/07/04 (S) -- Rescheduled from 1:30 04/07/04 --
 04/14/04 (S) HES AT 1:30 PM BUTROVICH 205
 04/14/04 (S) Heard & Held
 04/14/04 (S) MINUTE (HES)
 04/16/04 (S) HES AT 1:30 PM BUTROVICH 205
 04/16/04 (S) Heard & Held
 04/16/04 (S) MINUTE (HES)
 04/19/04 (S) HES AT 1:30 PM BUTROVICH 205
 04/19/04 (S) Moved SCS CSHB 25(HES) Out of Committee
 04/19/04 (S) MINUTE (HES)
 04/20/04 (S) HES RPT SCS 2DP 3NR SAME TITLE
 04/20/04 (S) DP: DYSON, WILKEN;
 04/20/04 (S) NR: GUESS, GREEN, DAVIS
 04/26/04 (S) JUD AT 8:00 AM BUTROVICH 205

WITNESS REGISTER

Mr. Andy Harrington
Alaska Legal Services
Anchorage, AK
POSITION STATEMENT: Supports SB 388

Mr. Bob Bundy
Alaska Legal Services Board of Directors
Anchorage, AK
POSITION STATEMENT: Supports SB 388

Representative Mike Hawker
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor of HB 188

Larry Daniels
General Manager
Alyeska Resort
Girdwood, AK
POSITION STATEMENT: Supports HB 188

Dave Wilson
Mountain Manager
Alyeska Resort
Girdwood, AK
POSITION STATEMENT: Supports HB 188

Representative Bruce Weyhrauch
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor of HB 25

Dr. Marie Wallington
Medical Ethicist
Providence Hospital
Anchorage, AK
POSITION STATEMENT: Answered questions pertaining to the
implementation of HB 25

Paul Malley
President
Aging with Dignity
Florida
POSITION STATEMENT: Supports HB 25

ACTION NARRATIVE

TAPE 04-52, SIDE A

CHAIR RALPH SEEKINS called the Senate Judiciary Standing Committee meeting to order at 8:06 a.m. Senators French, Ogan and Chair Seekins were present. The committee took up SB 388.

SB 388-CIVIL LEGAL SERVICES FUND

CHAIR RALPH SEEKINS, sponsor of SB 388, explained to members that SB 388 sets up the Civil Legal Services Fund, into which the legislature may appropriate the punitive damage awards that it currently deposits into the general fund. He noted that in Alaska, 50 percent of punitive damage awards go to the state, 50 percent go to the prevailing party. The Civil Legal Services Fund is to be used to provide legal services to low-income individuals. He believes providing those services is a worthwhile goal and one that he supports strongly. Those legal services are used effectively; clients are not filing frivolous lawsuits but instead pursue legitimate claims that they could not otherwise afford to pursue.

SENATOR OGAN asked if an unemployed legislator would qualify for free legal services and, if so, he was declaring a conflict of interest.

CHAIR SEEKINS jested if this was Senator Ogan's only job, he probably would qualify. With no questions from members, he took public testimony.

MR. ANDY HARRINGTON, representing Alaska Legal Services, thanked committee members for hearing SB 388 and told them Alaska Legal Services is a non-profit agency that provides free legal assistance to low-income people. Alaska Legal Services does not represent people who are charged with crimes; it handles cases in which, for example, a tenant might be faced with a loss of shelter, a working family is faced with a loss of income through garnished wages, or a domestic violence victim is faced with further victimization while trying to navigate the legal system. When a legal defense can be raised on behalf of these clients, Alaska Legal Services makes a case in court for them. In addition, Alaska Legal Services has a considerable education component, which includes a pilot project legal lab where people learn to do their own legal research and learn court system procedures. Its website, Alaskalawhealth.org was specifically designed for that purpose.

MR. HARRINGTON informed members that the court system raised this idea while working with Alaska Legal Services on the possibility of establishing a civil filing fee surcharge to raise revenues. He again thanked members for considering this measure.

MR. BOB BUNDY, member of the Alaska Legal Services Board of Directors, told members he has practiced law around Alaska for 32 years. He pointed out that Alaska Legal Services is often put in the position of arguing against unrepresented people with no understanding of the law or procedure. Those cases create a bottleneck in the court. In addition, Alaska Legal Services gives legal advice to people, which alleviate the need to spend resources and time engaging in a legal battle that does not need to be fought. It also provides legal services to people who cannot afford services that enable them to get through circumstances in life, such as adoptions, divorces, child custody disputes, and others that can only be addressed by the legal system. When those situations are not addressed, they can turn into gigantic problems later on and are more time consuming for all involved.

MR. BUNDY pointed out that Alaska Legal Services does a lot to make sure that people in our society have legal advice and representation, which helps the entire legal system to function better. With the squeeze on revenues everywhere, it has become harder to provide those services, particularly in the Bush. He concluded:

The bang for the buck is unbelievable. The lawyers at Legal Services work for much less than any other lawyers you'll find in the state, especially - including people that are actually state employees. These people work for a little bit, they care about their clients and they just do a real good job. I think this is a really worthwhile bill if there's some way to get some money to this group of people to keep this going on.

SENATOR FRENCH asked how much state funding Alaska Legal Services receives now and whether he is concerned this bill will act as a proxy for that funding.

MR. HARRINGTON said Alaska Legal Services received \$125,000 for FY 04 from the state. About 20 years ago, it received \$1 million, so its budget has decreased dramatically. In FY 03 it received \$175,000. The House budget contains \$125,000 for next

year but that amount was not included in the Senate budget. He said his "read" of state finances over the next few years is that funding will become increasingly difficult to get, which persuades him that it makes sense to have this dedicated program revenue. He said the bottom line is that Alaska Legal Services is worried that SB 388 may replace a state appropriation, but given the difficulties it has had with state appropriations, SB 388 seems to be the better course to pursue.

CHAIR SEEKINS responded:

Andy I appreciate that. I think many members share the intent, as a good intent, and don't aim for this to supplant state support but to try to maybe enhance it would be a better word. Again, it is going to be an interesting fund because this bill basically says the legislature may appropriate - it doesn't say that it shall but it may, so we'll have a way to at least apply some leverage and some stronger discussion than just having it get lost somewhere in the subcommittee discussions.

He then noted with no further participants, public testimony was closed. The committee took a short at-ease from 8:20 to 8:22 a.m.].

Upon reconvening, SENATOR FRENCH commented that the representatives from Alaska Legal Services addressed his concerns.

SENATOR OGAN moved SB 388 with its attached fiscal note from committee with individual recommendations.

With no objection, CHAIR SEEKINS announced that SB 388 moved from committee.

HB 188-BAIL SCHEDULE FOR SKIING VIOLATION

REPRESENTATIVE MIKE HAWKER, sponsor of HB 188, told members he introduced this legislation at the request of the downhill ski industry in Alaska. The purpose of HB 188 is to complete the implementation of the Alaska Ski Safety Act (ASSA), which was passed by the Eighteenth Legislature in 1994. He noted that Representative Kerttula co-sponsored this legislation. Her father carried the original ASSA.

He explained that in 1994, the fact that Alaskans valued downhill skiing as a sport and had a great opportunity to develop winter tourism was recognized. The ski industry was fairly unregulated but as large ski areas were being developed, the need to adopt regulations to define the rights and responsibilities of both the operators and users of ski areas became apparent. The ASSA attempted to do that and put quite a few burdens on the operators of ski areas, regarding patrol, safe ski lifts, etcetera, to make the sport as safe as possible. While that act recognized the duties of operators, it also required affirmative duties of skiers by expecting the skier to know the range of his ability. However, a number of particular offenses that have presented sufficient danger were not included in the original act, and the industry has asked that it be able to fine skiers for those offenses to deter unsafe and inappropriate behavior. He emphasized that HB 188 does not change any of the aspects of the ASSA. Its purpose is to clear up two problems.

He explained the first addition as follows:

The first section really makes a change. It eliminates this tag line that says...a person...[that] violates a provision of certain sections is guilty of a violation. The commissioner of the Department of Natural Resources shall authorize people to issue these citations, but another tag line says within a ski area over which the state has jurisdiction. Now, that's become an item of some confusion, as we've had a couple of changes in administration since 1994 and with people in the Department of Natural Resources, and the ski industry itself.

As I talk to members of the ski industry, their interpretation of that original provision was that that was there to distinguish federal from state jurisdiction so that the state was not trying to pass laws or regulations that would be trying to regulate federal operations, which we could not do. They wanted to include - within state jurisdiction, it's sort of like you know, saying, there's the primary law enforcement over the area - that would include both areas operated by the state itself as well as private operations operating within the state in an area that's under state jurisdiction.

CHAIR SEEKINS clarified that state jurisdiction would apply on federal property unless otherwise provided.

REPRESENTATIVE HAWKER said that is what was at issue: who had jurisdiction where. He added that this bill enjoys the support of both the Department of Natural Resources (DNR) and the ski industry and both want to make it very clear that it applies to any ski area, not only those operated by the State of Alaska.

REPRESENTATIVE HAWKER continued:

The second [change] was the original ski safety act in 1994 contemplated that the Supreme Court would establish a bail forfeiture schedule for those violations specified in the section referenced in the bill here, which, in the sponsor statement, I've attached an addendum to that. These are specific items in Section 05.45.100 that were identified within the bill as being those activities that a person could do that we wanted to discourage with the greatest possible deterrents. You'll find that in the very end of the package there is a letter from the Eaglecrest Ski Area, which summarizes at page 2 the bail schedule that had been proposed by DNR back in 1994. It basically moves the schedule of fees for these violations from \$50 to \$150 for several of the violations.

I want to emphasize that none of these violations for which a bail forfeiture schedule is contemplated have anything to do with judgmental calls on a skier's ability to ski. These are not speeding tickets for skiing too fast. This is not giving the ski patrol the ability to go out there and essentially be a police force on the ski slope but these are items that are very objectively determined - having a collision, leaving someone injured, skiing in a closed area, skiing or riding lifts under the influence of drugs and alcohol, crossing the track of an uphill lift, using skis without stopping devices - obviously something could become a missile going downhill, and skiing in a closed area.

The Supreme Court has also - and in your package are two letters that are particularly succinct about this, and their statement was quite simply that the Supreme Court does not believe there is clear authorization in

the statute to establish the bail schedule. And so Section 2 gives very clear and succinct direction to establish the bail forfeiture schedule and, again, the Supreme Court shall establish by rule or order a schedule of bail amounts, which may be forfeited without a court appearance for a violation of c or g.

The third section follows up that point of without a court appearance - I mean this is not a criminal activity; this is just something you want to discourage. The penalty is only - these offenses are classified as violations, which are punishable only by a small fine.

The third section of the bill goes to the point of law where these sort of issues are dealt with and this is AS 12.25.180 and 190, which are really part of the arrest and citation section of the Code of Criminal Procedure where we specifically exempt any citation issued under the ski safety act from having the requirement that an individual appear in person should they forfeit their bail on this. Other areas of citations where we've got bail schedules in the state that are similar are motor vehicle citations with a bail fine schedule, fish and game violations with a bail schedule, obviously the proposal is to add the ski safety act. We've also got the parks and recreational facilities, littering citations and ...also the Boating Safety Act citations. That third section, again, is specifically saying that when you issue a citation here, the citation does not have to have a written promise to appear in court since it's at best addressed only by a fine if offered.

We do have available today to present both the Department of Natural Resources and representatives of the Alaska ski industry, should you wish to query them any, sir.

8:30 a.m.

SENATOR FRENCH asked if the ski industry could currently be issuing citations for each of the offenses if it wanted to.

MR. HAWKER said his understanding is that under the existing structure, the violation schedule is punishable today by a \$50

fine. He added that the bill would authorize the Supreme Court to establish a bail schedule.

SENATOR FRENCH referenced the bail schedule in the Eaglecrest Ski Area letter and asked if they are suggestions to the Supreme Court.

MR. HAWKER said that is his understanding and that DNR proposed that schedule to the Supreme Court in 1994 when the court said it had no authority to adopt it.

SENATOR FRENCH expressed concern that right now a person could be cited for a \$50 violation and will lose the lift ticket. He believes that is a severe enough penalty for many of the offenses.

CHAIR SEEKINS believed the proposed bail schedule contains ceilings for the fines rather than mandatory amounts. He added that many fines are suspended upon condition of no recurrence. He believes the point of the bail schedule is to provide a meaningful penalty to prevent people from endangering others.

REPRESENTATIVE HAWKER felt Chair Seekins' analysis is right on point and that Commissioner Irwin would support that analysis also. He pointed out there is particular concern about skiing in closed areas, therefore the fine needs to be sufficient to discourage that activity. If an area was closed because of avalanche danger, that activity could expose a large number of people to injury.

CHAIR SEEKINS asked about the definition of "peace officer" in the bill.

REPRESENTATIVE HAWKER acknowledged that section is confusing because peace officers are not involved in ski safety act activities; that act applies to ski operators and DNR. He explained:

If you notice, it moves into Alaska statute section 12, which is the Code of Criminal Procedure, and this is generically a section excluding certain citations from having this mandatory requirement to appear. In this context the word 'peace officer,' which is typically - I guess the paragraph is prefaced by...'a person cited for the crime shall give a written promise to appear in court by signing at least one copy of a written citation prepared by the peace

officer'. That is the general rule when, in this state, someone has committed a crime and is being cited by a police officer for it.

Then the next paragraph is where it becomes operative and that is 'the written promise requirement does not apply to boating citations' and all the rest of these. The implication that it involves a requirement that a peace officer issue the citation is...not contemplated or required under the ski safety act. This is strictly a violation activity managed by the Department of Natural Resources and folks designated by the commissioner to be part of the process, not involving peace officers.

CHAIR SEEKINS indicated that several people have inquired about that section and thanked Representative Hawker for the explanation. He then asked Representative Hawker if his intent is to create a more serious deterrent for those people who knowingly put the life and safety of other individuals at stake through bad practices on ski slopes.

REPRESENTATIVE HAWKER said that is correct, within the larger context of promoting a vibrant downhill ski industry in Alaska.

SENATOR OGAN asked about places like Hatcher Pass where people ski and snowmachine but there is no operator.

REPRESENTATIVE HAWKER answered the definition section of the ski safety act, which is AS 05.45.200, specifically provides that a ski area means downhill ski slopes, trails or places under the control of a downhill ski area operator. A ski area does not include a cross-country ski trail, even if owned by an operator. HB 188 does not affect open land that is not commercially developed as a downhill ski area.

CHAIR SEEKINS agreed with Senator Ogan that people who put other people's lives in danger on unmanaged slopes should be penalized.

SENATOR OGAN pointed out that the state does not have the resources to pay for avalanche forecasting but if he were a park ranger he would hire an avalanche expert. He felt that modifying the bill to allow state parks to close, particularly Chugach State Park, when hazardous conditions exist would be wise. He pointed out that whenever a rescue team is engaged in a search after an avalanche, 50 people's lives are put at risk.

CHAIR SEEKINS took public testimony.

MR. LARRY DANIELS, ski area general manager, Alyeska Resort, stated support for HB 188. He said this legislation simply completes the 1994 ski safety act as originally contemplated. The ski safety act has been beneficial over the years as it specifies both the skiers and operators' responsibilities. HB 188 will provide enforcement power for the ski safety act. He described some of the violations that occur and the dangers caused by those violations.

MR. DAVID WILSON, mountain manager, Alyeska Resort, told members that Alyeska Resort has kept violation records for three years, which show a decrease in the number of violations cited. Four of those violations were very serious: collision, jumping from the chairlift, ticket fraud, and skiing in a closed area. Most citations are issued for skiing in closed areas. In the 2000-2001 season, DNR issued five citations; in 2001-2002 it issued one citation. He emphasized that citations are not issued arbitrarily. They are used as deterrents.

SENATOR FRENCH asked Mr. Wilson if the resort has the authority now to issue citations.

MR. WILSON said Alyeska Resort notifies DNR, which issues the citations.

SENATOR FRENCH remarked that HB 188 would allow the ski area operator to pick folks to issue citations and asked Mr. Wilson if Alyeska Resort has discussed that possibility.

MR. DANIELS replied that Alyeska's staff would not directly issue citations. They would take recommendations to DNR staff, which would decide whether to issue the citations.

CHAIR SEEKINS affirmed that Senator French's interpretation is correct in that the bill allows the commissioner of DNR to authorize individuals to issue citations.

REPRESENTATIVE HAWKER reminded members that language is in current statute.

There being no further participants, CHAIR SEEKINS closed public testimony.

SENATOR OGAN repeated his belief that the committee should consider including state park closures in the bill.

CHAIR SEEKINS noted that would require a title change.

SENATOR OGAN said he would only want to make that change with the sponsor's concurrence.

TAPE 04-52, SIDE B

REPRESENTATIVE HAWKER responded that although he feels Senator Ogan's concern is legitimate, he would prefer to keep the bill as is. He noted this legislation is specific to organized ski areas and the ski safety act and he has not even looked into any other statutes that apply to mechanized sports.

CHAIR SEEKINS cautioned that any legislation that pertains to mechanized vehicles would entail a great deal of public input so he would prefer not to burden HB 188 with that discussion at this late date in the session.

SENATOR FRENCH commented that he feels lukewarm about this bill if Alyeska only issued six citations in two years. He believes HB 188 is an attempt to fix something that is not broken.

CHAIR SEEKINS announced he would hold the bill until the entire committee is present.

HB 25-HEALTH CARE SERVICES DIRECTIVES

REPRESENTATIVE BRUCE WEYHRAUCH, District 4, gave the following introduction of HB 25.

HB 25 was prefiled in 2002 and it had roughly six hearings in House Health and Social Services and then four hearings in House Judiciary. And then over here, Chair Dyson of the Senate Health and Social Services Committee held I think, roughly, eight hearings and it's gone through substantial revision in the Senate and I owe a great deal of respect and appreciation to Senator Dyson for what that committee did on this bill in conjunction with our office.

This bill is a significant piece of legislation in that it brings together programs that deal with organ donation, the living will program, the comfort one, do-not resuscitate provisions of statute, the durable

powers of attorney and advanced directives for health care decisions. Death is a critical part of life and we all die. This bill is intended to provide in one place the information available to people who are dying and whose families are dying and who want to plan for their deaths when that time comes.

It's intended to help clarify existing law and to help bring other good portions of laws throughout the United States into one law here in Alaska and it's garnered a great deal of attention from a multitude of parties that are interested in clarifying the statutes on these issues and allowing the public who needs to deal with this in hospitals, hospices - medical providers, a clear standard to deal with end-of-life health care decisions.

The bill gathered my interest because of my father who recently passed away and he had a durable power of attorney and advanced health care directives but he didn't advise my mother of it. Therefore, he languished in a state where he did not want to be for three years before he actually passed away and when my mother was advised of the situation she was upset because he was living the life that he never would have wanted. If his advanced health care directives had been simply acted upon, he would have been treated a lot differently in terms of his medical health care decisions.

And so this is something that all people can use and, Mr. Chairman, it is a meaty bill. I want the committee comfortable with it as the other committees have been as they passed it out and so what I was planning to do was step back and let a lot of other people testify who've had input on this.

SENATOR OGAN asked how a medical provider in Alaska would know if a visiting patient here had a do-not-resuscitate order in another state.

REPRESENTATIVE WEYHRAUCH deferred to Dr. Wallington for an answer.

SENATOR OGAN said he also would like an explanation of the do-not-resuscitate protocol on page 10 of the bill.

DR. MARIE WALLINGTON, medical ethicist for the Providence health system in Alaska, told members she has worked extensively with Representative Weyhrauch and the Senate HESS Committee on this legislation. She told members that regarding a visitor with a do-not-resuscitate order in another state, in general, a person with a do-not-resuscitate order has some kind of definition. If the medical staff can verify that a person has such an order, they are relieved from providing resuscitation. An Alaskan who does not have a do-not-resuscitate order identification on him will be resuscitated.

9:15 a.m.

MR. PAUL MALLEY, President of Aging with Dignity, a non-profit organization in Florida, gave the following testimony. He said he is familiar with what is happening with the Five Wishes document on a national level and how it is promoting good quality care at the end of life. He provided the following highlights of what is happening nationally.

His agency had three goals when it developed the Five Wishes document. First, it wanted to make a document that was easy to understand and use. Second, it wanted the document to address more than medical issues because when people are asked what is most important to them at the end of life, they most often want to be at home, with their family, without pain, etcetera, along with their preferences for life support treatment.

He noted that the popularity of the Five Wishes document has grown rapidly, and about 6,000 organizations are distributing it, including hospitals and employers. However, a few roadblocks remain on the national level. In 15 states, including Alaska, mandatory forms are required and those forms do not provide much "wiggle room" for people to put their wishes in their own words, which can deter people from using those documents. His understanding of HB 25 is that it makes the process much more streamlined and effective by putting all of the requirements for durable powers of attorney for health care, living wills, organ donation and others under one umbrella. It also makes it easier for Alaskans to put their wishes in their own words, whether in a Five Wishes document or another document.

SENATOR OGAN commented that had he had a living will when he had his full cardiac arrest, he probably would not be alive right now because his prognosis was very poor. He said although he had

a fantastic experience with Alaska's medical community, he finds physicians to be pessimistic in general.

DR. WALLINGTON responded that the fact that a person has signed an advanced directive does not mean the person has agreed to not be resuscitated. The physician must be sure of that person's medical situation and if the physician knows the person cannot be kept alive, he might consider writing a "Do-Not-Resuscitate" order but that would not have been the case when Senator Ogan had his cardiac arrest. She said the medical community hopes people will spend a lot of time determining how their advance directives will read so that they are telling the medical staff how to decide. Had Senator Ogan had an advance directive that said he wanted every effort to be made to keep him alive, that would have given clear direction to his medical staff. She pointed out the old form was terrible in that it gave no direction in unclear situations.

CHAIR SEEKINS noted the committee had other commitments at this time and stated his intent to bring HB 25 before the committee on Thursday. He then adjourned the meeting.