

HOUSE FINANCE COMMITTEE
April 20, 2006
1:52 P.M.

CALL TO ORDER

Co-Chair Meyer called the House Finance Committee meeting to order at [1:52:48 PM](#).

MEMBERS PRESENT

Representative Kevin Meyer, Co-Chair
Representative Bill Stoltze, Vice-Chair
Representative Richard Foster
Representative Mike Hawker
Representative Jim Holm
Representative Reggie Joule
Representative Mike Kelly
Representative Beth Kerttula
Representative Carl Moses
Representative Bruce Weyhrauch

MEMBERS ABSENT

Representative Mike Chenault, Co-Chair

ALSO PRESENT

Representative Norman Rokeberg; Cecil Bykerk, Alaska Comprehensive Health Insurance Association Board (ACHIA), Omaha, Nebraska; Brian Angel, Vice Chairman, Alaska Comprehensive Health Insurance Association Board (ACHIA), Omaha, Nebraska; Linda Hall, Director, Division of Insurance, Department of Commerce, Community and Economic Development; Susan Parks, Deputy Attorney General, Criminal Division, Department of Law; Tom Maher, Staff, Senator Gene Therriault; Pat Davidson, Director, Legislative Auditor, Legislative Audit Division; Dave Stancliff, Staff, Senator Gene Therriault

PRESENT VIA TELECONFERENCE

Sundi Hondel, President, Physical Therapy Board, Anchorage

SUMMARY

HB 29 An Act relating to health care insurance and to the Comprehensive Health Insurance Association; and providing for an effective date.

HB 29 was HEARD and HELD in Committee for further consideration.

CS SB 200(JUD) am

An Act relating to defense of self, other persons, property, or services.

CS SB 200 (JUD)am was HEARD and HELD in Committee for further consideration.

SB 253 An Act extending the termination date for the Board of Chiropractic Examiners; and providing for an effective date.

SB 253 was reported out of Committee with a "no recommendation and with fiscal note #1 by the Department of Commerce, Community & Economic Development.

SB 254 An Act extending the termination date for the State Physical Therapy and Occupational Therapy Board; and providing for an effective date.

SB 254 was reported out of Committee with a "no recommendation and with fiscal note #1 by the Department of Commerce, Community & Economic Development.

CS SB 255(FIN)

An Act extending the termination date and duties for the Board of Examiners in Optometry; amending the licensing, endorsement, and renewal provisions for optometrists; and providing for an effective date.

CS SB 255 (FIN) was reported out of Committee with a "no recommendation and with fiscal note #1 by the Department of Commerce, Community & Economic Development.

[1:53:47 PM](#)

#HB29

HOUSE BILL NO. 29

An Act relating to health care insurance and to the Comprehensive Health Insurance Association; and providing for an effective date.

REPRESENTATIVE NORMAN ROKEBERG, SPONSOR, stated that the Alaska Comprehensive Health Insurance Association (ACHIA) was established to provide access to health insurance to all residents of the State who are unable to find or are denied health insurance or who are considered uninsurable. It is additionally required coverage for those federally eligible individuals under the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

The plan was first implemented in 1993 and is funded through premiums collected from insured and assessments received from health insurers transacting business in Alaska. Prior to the time that the State became self-insured, the State also participated in providing funds to ACHIA (through assessments received from its health insurer). The effect of the decision not to remain in ACHIA, reduced ACHIA's funding by approximately \$400,000 dollars per year.

In December 2003, there were 484 insured individuals participating in ACHIA. He stated that as the insurer of last resort, it is important that the State guarantee ACHIA remains viable and in place. During 2003, over \$4 million dollars was collected in assessments from ACHIA members (those companies or entities who do business in Alaska and pay into ACHIA) and over \$2.6 million dollars was collected in premiums from insured individuals. ACHIA paid out over \$6.6 million dollars in claim expenses in that same year.

Representative Rokeberg continued, the majority of Alaskans that receive health care benefits do not contribute to the high-risk pool; thereby, shifting costs to only individuals and small groups that purchase health insurance. That is poor public policy, particularly on an unfunded Federal mandate.

Many of the self-insured companies, objected to the original version of the bill. In order to accommodate the needs of ACHIA, the legislation has been modified to grant a tax credit to the insurance companies who are currently assessed for the entire ACHIA shortfall, by using a small portion of the premium taxes paid into the State. A premium tax credit would be justifiable given the importance of maintaining the viability of the Association and its requirement under HIPAA. He maintained that when viewed against the demands of the general fund, viability of ACHIA exceeds most other legislation and he urged support.

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Representative Rokeberg presented a handout, demonstrating ACHIA contribution breakdowns from 1993 through 2005. (Copy on File). The attachment highlights:

- 1998-2005: Proforma With HB 29
- 1993-2005: Historical
- 1998-2005: Proforma Assuming State Had Remained Insured

Representative Rokeberg noted the State's original participation in the program, dropping out and giving up responsibility. He emphasized the need to meet that burden,

which can be addressed through a tax credit, not an allotment.

[2:04:22 PM](#)

Co-Chair Meyer advised that the Committee is concerned with rising costs in the out years. Representative Rokeberg pointed out that all insurance premiums continue to increase.

Representative Weyhrauch commented on the unfunded liability burden to the Department and the Division of Retirement and Benefits. Representative Rokeberg was not sure, understood this would be a tax credit. He said Representative Weyhrauch referenced an old fiscal note to the previous version of the bill and that there would be no impact to the unfunded liability. The prior version did spread the risk.

Representative Weyhrauch inquired if the bill was related to HB 10, the non-profit pool. Representative Rokeberg stated it wasn't, however, has the same goal.

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Representative Kelly asked if other states use the proposed system.

Co-Chair Meyer inquired why the legislation was coming to the Committee at such a late date. Representative Rokeberg explained that he had changed the source of funding and the style of the bill.

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CECIL BYKERK, EXECUTIVE DIRECTOR, ALASKA COMPREHENSIVE HEALTH INSURANCE ASSOCIATION BOARD (ACHIA), OMAHA, NEBRASKA, advised that ACHIA is an important program, which first passed in 1992. He offered to provide the FY04 annual report to the Committee.

ACHIA is an important piece of the insurance system in Alaska. It serves & benefits all Alaskans in one-way or another. Over the 14 years, ACHIA has paid over \$45 million dollars in claims; collecting \$17 million dollars in premiums. The people purchasing those premiums for the most part are uninsurable individuals. ACHIA offers coverage on a subsidized basis. The primary purpose is to serve the uninsurable population. ACHIA is the Healthy Insurance Portability and Accountability Act (HIPAA) solution for Alaska and under which Alaska has fulfilled the federal requirements.

Mr. Bykerk added that ACHIA offers an outlet of insurance to those that would otherwise be uninsurable. Member's pay a

high rate @ 140% above the standard rate. In reality, they should pay 300% more given the health issues. ACHIA offers an in for the system. Those people become "payers" to the health system, which eventually, benefit everyone in the State. There is no cost shifting using these mechanisms.

Currently, short falls are made-up by assessing health insurers. It has been estimated that premium taxes paid by health insurers, are somewhere between \$10-\$12 million dollars. When companies get assessed for shortfalls, the costs get transferred back to the policyholders. Those are expenses that insurance companies must cover in some manner, ultimately transferred back through premiums to individuals. HB 29 will ease the burden by broadening ACHIA's overall funding base.

Mr. Bykerk added, AHCIA anticipates receiving \$1 million federal dollars over the next five years. He reiterated that all Alaskans would benefit from ACHIA. He offered to answer questions of the Committee.

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BRIAN ANGEL, VICE CHAIRMAN, ALASKA COMPREHENSIVE HEALTH INSURANCE ASSOCIATION BOARD (ACHIA), NEBRASKA, echoed comments made by Mr. Bykerk. He emphasized that ACHIA does benefit all Alaskans. The \$45 million dollars that ACHIA has paid in claims is money that would not have gone into the system, rather "free-care". He acknowledged that everyone knows, there is no such thing as "free care".

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Co-Chair Meyer asked if the legislation could reduce insurance rates. Mr. Bykerk replied that health insurance costs and premiums continue to go up. The bill could help mitigate some costs for individuals and small groups buying coverage. Those assessments have been in a range of 1% - 1.5% of premium costs each year. He believes it could become more equitable for those purchasing insurance.

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LINDA HALL, DIRECTOR, DIVISION OF INSURANCE, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, commented that the ACHIA plan would not prevent the type of concerns voiced by Representative Kelly and those seeking different kinds of relief. People that are a part of ACHIA, do pay health insurance premiums, but pay at a reduced rate. There is a 150% cap of the average rate. Uninsurable people can buy insurance at a substantially increased premium; the program does prevent the growth of the uninsured population. She advised that the Division of Insurance has historically supported the program and noted they had worked diligently

with Representative Rokeberg to find other funding sources. The program provides "huge" benefit to Alaskans.

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Representative Holm asked what it means to have a 150% of higher rate cap. Mr. Bykerk explained, the rates are based upon surveys taken from the top five insurance carriers in the State of Alaska. Based on that, the Board sets the rate at a percentage, capped at 150%. There is no intent to compete with the insurance industry. Those rates are based on the same structure in the market place and are age-dependent, offering various deductible choices. ACHIA is capped at 150% by law, attempting to keep it affordable.

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Representative Holm asked if the majority of the subscribers were non-paying. Mr. Bykerk noted that those that left the coverage participated in a survey, which indicated that they could not pay the premium costs. Available data shows that if they were uninsurable and not HIPAA eligible, they must indicate that they applied and were turned down. He emphasized, they must demonstrate that they are uninsurable.

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Mr. Angel pointed out that there are 32 states that carry high-risk pools; 19 states use some form of general fund revenues to fund the pool.

PUBLIC TESTIMONY CLOSED

[2:32:24 PM](#)

Co-Chair Meyer noted concern with the fiscal costs, indicating he would hold the bill in Committee to determine other fiscal options.

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Representative Kelly asked how it could be determined, who is an assessed "other insurance company". Mr. Bykerk replied that there is no correlation or assessment, but rather defined in statute.

HB 29 was HELD in Committee for further consideration.

[2:37:28 PM](#)

#SB200

CS FOR SENATE BILL NO. 200(JUD) am

An Act relating to defense of self, other persons, property, or services.

DAVE STANCLIFF, STAFF, SENATOR GENE THERRIAULT, stated that SB 200 was introduced to allow individuals to protect themselves and others from violent crimes. Based on a Florida Statute hailed as the "Castle Law", SB 200 allows force or deadly force as a legally available option under certain circumstances where life, property, and the welfare of others is at risk.

Mr. Stancliff noted the provision excluding the use of force for any reason against law enforcement officers, emergency services personnel and/or those assisting in official duties.

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Vice Chair Stoltze said he had heard concerns voiced regarding the time after exercising the "doable force", the person being prosecuted. Mr. Stancliff declared that was motivation for the bill and the front section includes exceptions.

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Representative Hawker asked about the legal precedence of the language on Page 3, removing "duty to retreat" and replacing it with "leaving the place of encounter". Mr. Stancliff deferred to the Department of Law.

SUSAN PARKS, DEPUTY ATTORNEY GENERAL, CRIMINAL DIVISION, DEPARTMENT OF LAW, addressed the change in terminology on Page 3, stating that the Department did not believe it would raise concerns regarding legal precedent. In working with the Sponsor, they attempted to make the self-defense laws easier to understand. Previously, she thought it was more difficult to get lawyers and jurors to understand phraseology. She stated the Department was involved in the drafting the bill.

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Ms. Parks noted the Department supports the rewrite. She offered to answer questions of the Committee.

Representative Kerttula referred to the section on immunity and asked if the person was acting in true self-defense and the other person turned out to be an off-duty peace officer, how would that be resolved. Ms. Parks stated the Department had not been involved in drafting that portion. She added it would be left to the jury to decide the immunity or liability. The plaintiff would not automatically be liable or immune.

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Representative Kerttula referred to the section addressing gangs; she thought there was justification available for self-defense written into Section 2. In that section, an individual might not be able to use the justifications.

Ms. Parks stated that section pertains to "shoot outs". The Sponsor attempted to carve out situations when a person was engaging in criminal type behavior, when self-defense would not apply. She referred to Subsection 4, (a,b,c,d). The intent is meant to help innocent people and not those involved in criminal acts.

Representative Kerttula requested clarification regarding new gang members, who may not have committed criminal acts and could use that self-defense justification. Ms. Parks pointed out that current law precludes it; if one is involved in such risky behavior, they stand the risk of the violent response.

Representative Kerttula referred to Page 2, Subsection C, Line 24, suggesting they might have a history of violence, but not committing the crime, merely responding to the conduct of others. Ms. Parks offered to follow up on that conversation.

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Representative Hawker observed that Section 2, Subsection 4, was difficult language to understand. He pointed out that in (D), one might not claim self-defense if that person, possessed an illegal weapon.

Ms. Parks acknowledged that was correct; she pointed out cases in which, felons, who had no legal right to carry a concealed weapon, end up in a confrontation and then claimed self-defense.

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Representative Hawker referred to (D) and the illegal nature of the weapon as a result of the felony conviction. He asked about the circumstances of registered firearms and if the individual could use the self-defense justification.

[2:58:27 PM](#)

Ms. Parks replied the original restriction had been broader. Under federal law, those involved in domestic violence could possess weapons; many Alaskans do own weapons.

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Representative Holm noted the reference to "first responders" and asked if that included military or other sections of government. He asked how that related to a person wanting to protect themselves, "from the government" taking property.

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Ms. Parks referred to Section 1, which creates immunity from civil liability. She pointed out that subsection merely prevents the immunity from becoming automatic. Specifications leave the decision to the discretion of a judge.

[3:02:40 PM](#)

Vice Chair Stoltze noted the arduous process the bill has gone through during other committee discussions.

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Mr. Stancliff mentioned amendments made to the bill during the committee process. The bill does not provide license to shoot someone for stealing property. Each case would be weighed on terms regarding "reasonably necessary force". The intent is to provide individuals, the ability to defend their life and property.

PUBLIC TESTIMONY CLOSED

Co-Chair Meyer asked if the Sponsor had supported changes. Mr. Stancliff acknowledged that amendment which the National Rifle Association (NRA) does not agree with, however, the overall intention of the bill has remained intact to the satisfaction of the Sponsor.

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Representative Hawker expressed appreciation for the process the bill has moved through. He referred to the provision on Page 2, the possession of an illegal weapon, resulting in a felony conviction. He thought it created a loophole and asked why the provision was limited to instances of felony conviction. Mr. Stancliff provided a hypothetical situation of a person owning a shotgun and making the decision to use it to protect their home. In that process, they would open themselves up to prosecution for possession.

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Vice Chair Stoltze reiterated, is the bill as effective with the changes made in previous committees. Mr. Stancliff responded that it is impossible to cover all hypothetical

situations and that the sponsor is "comfortable" with the current form.

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Representative Weyhrauch indicated concern that if an individual used an illegal weapon, they no longer could claim self-defense.

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Representative Hawker asked for the Sponsor's response to a proposed change on Page 2, adding a period after the word "possess", eliminating "conviction for a felony". Mr. Stancliff thought the change could make the justification "unusable".

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Representative Hawker thought that loophole, provides an opportunity for a misdemeanor domestic violence perpetrator, to use the clause. Mr. Stancliff said it could be considered a friendly amendment.

[3:14:10 PM](#)

Vice Chair Stoltze commented that technical matters should not be dealt with "hastily". He suggested taking the time necessary to work it out, since House Finance is the last committee of referral.

Co-Chair Meyer agreed that if the bill were held, it would provide the time for needed discussion.

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SB 200 was HELD in Committee for further consideration.

#SB253

[3:17:05 PM](#)

SENATE BILL NO. 253

An Act extending the termination date for the Board of Chiropractic Examiners; and providing for an effective date.

TOM MAHER, STAFF, SENATOR GENE THERRIAULT, provided a brief background on the sunset process that produced SB 253. Sunset reviews were conducted under revisions made last session to statutes that govern the sunset process. The standard sunset period for occupational boards and non-occupational boards was changed from "not to exceed four years" to "not to exceed eight years". Increasing the

standard sunset period allows for better use of audit staff, committee time, and makes the sunset process less consuming for boards and regulatory agencies.

Mr. Maher added that Alaska's sunset process has matured, most of the sunset reviews are less about eliminating boards and commissions, and more about operational performance. To better measure operational performance, last session, two new criteria were added to statute that must be considered in the course of a sunset review by the auditors:

- The extent to which the board, commission, or agency has effectively attained its objectives and the efficiency with which it has operated
- The extent to which the board, commission, or agency duplicates the activities of another governmental agency or the private sector.

Mr. Maher continued, expanding criteria assures auditors will measure the efficiency and effectiveness of boards, commissions or agencies under review. SB 253 stems from recommendations contained in the Legislative Audit Sunset Report dated September 26, 2005. They concluded that the Board of Chiropractic Examiners is operating in the public's best interest and should continue to regulate chiropractors. SB 253 follows the auditor's recommendation that extends the sunset to June 30, 2014 for an eight-year extension.

There is a fiscal note and that extending the Board would not incur any additional costs over the amounts proposed in the FY07 Governor's operating budget request. The Board is self-supporting.

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Representative Kelly referenced Page 5 of the audit.

PAT DAVIDSON, LEGISLATIVE AUDITOR, LEGISLATIVE AUDIT DIVISION, explained that the Board seemed to get "caught up" in a couple issues such as independent medical examinations (IME). The Department of Law warned them, they had no statutory authority to provide school sport examinations or MIE's, which tied into LBA's first recommendation to improve efficiency of the meeting process.

Representative Kelly asked if there was a cost to the State for those inefficiencies. Ms. Davidson replied that the license fees support the Board's activities.

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Representative Foster referenced the attorney general's recommendations listed on Page 18 of the audit. Ms. Davidson echoed previous comments regarding the independent medical examiners.

PUBLIC TESTIMONY CLOSED

[3:23:29 PM](#)

Representative Foster MOVED to REPORT SB 253 out of Committee with individual recommendations and with the accompanying fiscal note.

Representative Weyhrauch OBJECTED noting the number of boards of commissions statewide. Representative Weyhrauch WITHDREW his OBJECTION.

Representative Foster pointed out that in 1989, there were 114 Boards and Commissions. After Governor Hickel's term, there were 142.

There being NO further OBJECTION, it was so ordered.

SB 253 was reported out of Committee with a "no recommendation and with fiscal note #1 by the Department of Commerce, Community & Economic Development.

[3:25:29 PM](#)

#SB254

SENATE BILL NO. 254

An Act extending the termination date for the State Physical Therapy and Occupational Therapy Board; and providing for an effective date.

TOM MAHER, STAFF, SENATOR GENE THERRIAULT, explained that SB 254 stems from recommendations contained in the Legislative Audit Sunset Report dated September 17, 2005. Legislative Audit concluded that the State Physical Therapy and Occupational Therapy Board is operating in the public's best interest and should continue to regulate physical and occupational therapists. The Board safeguards the public interest by promoting the competence and integrity of those who practice in the field and continues to improve the effectiveness and ensure therapists are licensed in the State of Alaska. Accordingly, given the Auditor's recommendation, SB 254 extends the sunset date of the Board to June 30, 2014, for an eight-year extension.

There is a fiscal note associated with extending the Board; it will not incur additional costs over the amounts already contained in the FY07 Governor's operating budget request. The Board is self-supporting.

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SUNDI HONDEL, (TESTIFIED VIA TELECONFERENCE), PRESIDENT, ALASKA PHYSICAL THERAPY BOARD, ANCHORAGE, voiced support for the legislation and offered to answer questions of the Committee.

[3:27:52 PM](#)

Representative Foster MOVED to REPORT SB 254 out of Committee with individual recommendations and with the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

SB 254 was reported out of Committee with a "no" recommendation and with fiscal note #1 by the Department of Commerce, Community & Economic Development.

#SB255

CS FOR SENATE BILL NO. 255(FIN)

An Act extending the termination date and duties for the Board of Examiners in Optometry; amending the licensing, endorsement, and renewal provisions for optometrists; and providing for an effective date.

[3:28:48 PM](#)

TOM MAHER, STAFF, SENATOR GENE THERRIault, explained that SB 255 relates to the termination date and duties for the Board of Examiners in Optometry; amending the licensing, endorsement, and renewal provisions for optometrists and providing for an effective date.

Sec. 1 of extends the sunset date of the Board of Examiners in Optometry from June 30, 2006 to June 30, 2014 per the audit conclusions contained in the report. Legislative Audit concluded that the Board of Examiners in Optometry continues to serve a public need and is operating in the public interest. The regulation and licensing of qualified optometrists is necessary to protect the public's health, safety and welfare. The Board of Examiners in Optometry has operated effectively, adopted regulatory changes and supported legislation that improved its oversight process and promoted more effective regulation of licensed optometrists. The Auditor's recommendation provides for an eight-year sunset extension to June 30, 2014.

Sections 5, 6, 9, 10, & 12 incorporate the recommendations by the Legislative Auditor concerning a problem on licensing. The Auditor recommended the Legislature amend the optometry statutes to ensure current license endorsements for the diagnostic use of pharmaceutical agents. Currently, statutory language provides for a single

endorsement to both prescribe and use. However, the Board of Examiners in Optometry is now issuing two types of endorsements:

- The first allows a practitioner to both prescribe and use pharmaceutical agents, and
- The second allows a practitioner "use" only.

Current law does not authorize the use only endorsement. SB 255 corrects that situation by adding sections authorizing the use only endorsement and "grandfathers" in the practitioners that were given the endorsement over the years.

Mr. Maher continued, the legislation changes law to make current practices legal, grandfather's license holders in, and makes sure no practitioners are left out, which could have an impact on the number of providers serving the public, maximizing the number of practitioners that can practice in Alaska.

The rest of the legislation contains "housekeeping" recommendations that were approved by the Board and supported by the Department. Section 2 deletes the word "President" as the Board actually has a "Chair".

Mr. Maher discussed, Sections 3 & 4, allowing the Board to better protect the public by improving the handling of disciplinary actions.

Section 7 deletes the statutory cite requiring 24 hours of continuing education instruction, allowing the Board to establish through regulation, the number of hours without amending statute. The amendment was requested in response to the audit and is similar to other boards.

Section 8 removes the "branch office" reference as it no longer exists.

Mr. Maher pointed out the fiscal note by the Division of Occupation Licensing; the legislation will incur no additional costs beyond those already contained in the FY07 Governor's operating budget request. The Board is self-supporting thru the receipt of member fees.

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Representative Weyhrauch asked if an effort had ever been made to combine some of the boards.

PAT DAVIDSON, LEGISLATIVE AUDITOR, LEGISLATIVE AUDIT DIVISION, replied that they have not looked at that per se;

they had attempted to combine the Mental Health professionals, which did not go well.

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Representative Kerttula referenced Section 10, regarding the use of drugs applied topically by an optometrist, recalling past issues. Ms. Davidson said that area was not being discussed as it is "systemic versus topical drugs". The bill addresses optometrist's authority to prescribe drugs & use them; however, the statute does not allow the Board to license for use only. There is a small segment of the population that is looking for a "use only" and the proposed language allows that endorsement.

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PUBLIC TESTIMONY CLOSED

[3:37:02 PM](#)

Vice Chair Stoltze MOVED to REPORT CS SB 255(FIN) out of Committee with individual recommendations and with the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CS SB 255 (FIN) was reported out of Committee with a "no" recommendation and with fiscal note #1 by the Department of Commerce, Community & Economic Development.
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ADJOURNMENT

The meeting was adjourned at 3:37 P.M.