

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

February 28, 2006

4:05 p.m.

**MEMBERS PRESENT**

Representative Peggy Wilson, Chair  
Representative Paul Seaton, Vice Chair  
Representative Vic Kohring  
Representative Sharon Cissna  
Representative Berta Gardner

**MEMBERS ABSENT**

Representative Tom Anderson  
Representative Carl Gatto

**COMMITTEE CALENDAR**

HOUSE BILL NO. 442

"An Act relating to the validity of advance health care directives, individual health care instructions, and do not resuscitate orders; relating to the revocation of advance health care directives; relating to do not resuscitate orders; relating to resuscitative measures; relating to the liability of health care providers and institutions; relating to an individual's capacity for making health care decisions; and providing for an effective date."

- MOVED HB 442(HES) OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 31

Relating to designating September 9, 2006, as Fetal Alcohol Spectrum Disorders Awareness Day.

- MOVED HJR 31 OUT OF COMMITTEE

HOUSE BILL NO. 271

"An Act relating to limitations on overtime for registered nurses in health care facilities; and providing for an effective date."

- MOVED CSHB 271(HES) OUT OF COMMITTEE

HOUSE CONCURRENT RESOLUTION NO. 5

Relating to support of community water fluoridation.

- MOVED HCR 5 OUT OF COMMITTEE

HOUSE BILL NO. 426

"An Act relating to medical assistance eligibility and coverage for persons under 21 years of age."

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 412

"An Act relating to the waiver of undergraduate expenses for a spouse or dependent of a deceased resident peace officer or member of the armed services or fire department."

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 258

"An Act relating to aggravating factors at sentencing."

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 442

SHORT TITLE: HEALTH CARE DECISIONS

SPONSOR(S): REPRESENTATIVE(S) WEYHRAUCH

02/10/06	(H)	READ THE FIRST TIME - REFERRALS
02/10/06	(H)	HES, JUD
02/21/06	(H)	HES AT 3:00 PM CAPITOL 106
02/21/06	(H)	Scheduled But Not Heard
02/23/06	(H)	HES AT 3:00 PM CAPITOL 106
02/23/06	(H)	Heard & Held
02/23/06	(H)	MINUTE(HES)
02/28/06	(H)	HES AT 3:00 PM CAPITOL 106

BILL: HJR 31

SHORT TITLE: FETAL ALCOHOL SPECTRUM DISORDERS DAY

SPONSOR(S): REPRESENTATIVE(S) WEYHRAUCH

02/08/06	(H)	READ THE FIRST TIME - REFERRALS
02/08/06	(H)	HES
02/23/06	(H)	HES AT 3:00 PM CAPITOL 106
02/23/06	(H)	<Bill Hearing Rescheduled to 2/28/06>
02/28/06	(H)	HES AT 3:00 PM CAPITOL 106

BILL: HB 271

SHORT TITLE: LIMIT OVERTIME FOR REGISTERED NURSES  
SPONSOR(s): REPRESENTATIVE(s) WILSON

04/15/05 (H) READ THE FIRST TIME - REFERRALS  
04/15/05 (H) L&C, HES, FIN  
04/30/05 (H) L&C AT 1:00 PM CAPITOL 17  
04/30/05 (H) Moved Out of Committee  
04/30/05 (H) MINUTE(L&C)  
05/02/05 (H) L&C RPT 4DP 3NR  
05/02/05 (H) DP: CRAWFORD, LYNN, GUTTENBERG,  
ANDERSON;  
05/02/05 (H) NR: LEDOUX, ROKEBERG, KOTT  
05/03/05 (H) HES AT 3:00 PM CAPITOL 106  
05/03/05 (H) Heard & Held  
05/03/05 (H) MINUTE(HES)  
08/29/05 (H) HES AT 1:30 PM Anch LIO Conf Rm  
08/29/05 (H) Heard & Held  
08/29/05 (H) MINUTE(HES)  
09/23/05 (H) HES AT 8:00 AM Anch LIO Conf Rm  
09/23/05 (H) Heard & Held  
09/23/05 (H) MINUTE(HES)  
01/24/06 (H) HES AT 3:00 PM CAPITOL 106  
01/24/06 (H) Heard & Held  
01/24/06 (H) MINUTE(HES)  
02/14/06 (H) HES AT 3:00 PM CAPITOL 106  
02/14/06 (H) Scheduled But Not Heard  
02/21/06 (H) HES AT 3:00 PM CAPITOL 106  
02/21/06 (H) Scheduled But Not Heard  
02/23/06 (H) HES AT 3:00 PM CAPITOL 106  
02/23/06 (H) Scheduled But Not Heard  
02/28/06 (H) HES AT 3:00 PM CAPITOL 106

BILL: HCR 5

SHORT TITLE: FLUORIDATION  
SPONSOR(s): REPRESENTATIVE(s) SEATON

03/09/05 (H) READ THE FIRST TIME - REFERRALS  
03/09/05 (H) CRA, HES  
02/02/06 (H) CRA AT 8:00 AM CAPITOL 124  
02/02/06 (H) Moved Out of Committee  
02/02/06 (H) MINUTE(CRA)  
02/03/06 (H) CRA RPT 5DP  
02/03/06 (H) DP: SALMON, NEUMAN, CISSNA, THOMAS,  
OLSON  
02/21/06 (H) HES AT 3:00 PM CAPITOL 106  
02/21/06 (H) Scheduled But Not Heard  
02/23/06 (H) HES AT 3:00 PM CAPITOL 106

02/23/06 (H) Scheduled But Not Heard  
02/28/06 (H) HES AT 3:00 PM CAPITOL 106

**WITNESS REGISTER**

JACQUELINE TUPOU, Staff  
to Representative Bruce Weyhrauch  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Presented HB 442, Version G, and HJR 31, on behalf of Representative Weyhrauch, Sponsor and Prime Sponsor, respectively.

JOHN DAWSON, Partner  
Davis Wright and Tremaine Limited Liability Partnership (LLP);  
Representative, Providence Anchorage Anesthesia Medical Group  
Anchorage, Alaska

POSITION STATEMENT: Responded to questions regarding HB 442, Version G.

JOHN BITNEY, Lobbyist  
Alaska Nurses Association (ANA)  
Juneau, Alaska

POSITION STATEMENT: Testified in support of CSHB 271, Version P.

CINDY FOLSOM, Staff  
to Representative Sharon Cissna  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Responded to questions on

LAURIE HERMAN, Regional Director  
Government Affairs  
Alaska State Hospital and Nursing Home Association (ASHNHA)  
Providence Alaska Medical Center  
Anchorage, Alaska

POSITION STATEMENT: Testified in support for CSHB 271, Version P, save opposition for Section 18.09.010.

KATHERINE SHOWS, Staff  
to Representative Paul Seaton  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Presented HCR 5 on behalf of Representative Seaton, Prime Sponsor.

WILLIAM MARLEY, Doctor of Dental Surgery (DDS)  
Chairman, Fluoridation Committee  
Alaska Dental Society (ADS)  
Homer, Alaska  
POSITION STATEMENT: Testified in support of HCR 5.

**ACTION NARRATIVE**

**CHAIR PEGGY WILSON** called the House Health, Education and Social Services Standing Committee meeting to order at [4:03:48 PM](#). Representatives Seaton, Cissna, Gardner, and Wilson were present at the call to order. Representative Kohring arrived as the meeting was in progress.

HB 442-HEALTH CARE DECISIONS

[4:04:12 PM](#)

CHAIR WILSON announced that the first order of business would be HOUSE BILL NO. 442, "An Act relating to the validity of advance health care directives, individual health care instructions, and do not resuscitate orders; relating to the revocation of advance health care directives; relating to do not resuscitate orders; relating to resuscitative measures; relating to the liability of health care providers and institutions; relating to an individual's capacity for making health care decisions; and providing for an effective date."

[4:04:18 PM](#)

JACQUELINE TUPOU, Staff to Representative Bruce Weyhrauch, Alaska State Legislature, presented HB 442, Version G, on behalf of Representative Weyhrauch, Sponsor, and stipulated that no changes were made subsequent to the committee's previous review.

REPRESENTATIVE SEATON moved to adopt Amendment 1, 24-LS1618\G.1, Bannister, 2/24/06, which read [original punctuation provided]:

Page 3, lines 24 - 26:

Delete "or if the physician reasonably believes that the patient does not have a qualifying condition"

Page 4, line 25, following "chapter;":

Insert "or"

Page 4, lines 27 - 31:

Delete "or"

(D) because the health care provider or institution has a good faith belief that the condition requiring cardiopulmonary resuscitation or other resuscitative measures is not precipitated by a qualifying condition;"

[4:05:57 PM](#)

REPRESENTATIVE SEATON explained that on page 3, lines 24-26, and page 4, lines 27-31, Version G allows a physician to override a do not resuscitate (DNR) order, which "is against what we were doing in the adoption of the five wishes bill, ... and so I offer Amendment 1." He continued, stating that the provisions in the amendment allow a physician to disregard a DNR order when a procedure is being performed that is not related to the qualifying condition of the DNR order and resuscitation becomes necessary. To further comply with the five wishes bill, the amendment deletes the clause which allows a physician to disregard a DNR directive when they believe that the patient does not have a qualifying condition.

[4:08:57 PM](#)

REPRESENTATIVE CISSNA described her experience of doctors being loathe to allow people to die unless everything is specifically spelled out and the DNR order is at hand.

[4:09:33 PM](#)

CHAIR WILSON withdrew her objection, and there being no further objection, Amendment 1 was adopted.

[4:09:45 PM](#)

REPRESENTATIVE GARDNER referred to the document labeled Amendment 24-LS1618\G.2, Bannister 2/28/06, [subsequently adopted as Amendment 2] which read [original punctuation provided]:

Page 1, line 4:

Delete "of health care providers and institutions"

Insert "and discipline of health care providers, institutions, and facilities"

Page 2, line 25, through page 3, line 10:

Delete all material.

Renumber the following bill sections accordingly.

Page 4, line 25, following "chapter;":

Insert "or"

Page 4, lines 27 - 31:

Delete "or"

(D) because the health care provider or institution has a good faith belief that the condition requiring cardiopulmonary resuscitation or other resuscitative measures is not precipitated by a qualifying condition;

Page 5, lines 3 - 12:

Delete all material and insert:

**\*\* Sec. 7.** AS 13.52.080 is amended by adding a new subsection to read:

(c) A health care provider, health care institution, or health care facility is not subject to civil or criminal liability, or to discipline for unprofessional conduct, if a do not resuscitate order prevents the health care provider, health care institution, or health care facility from attempting to resuscitate a patient who requires cardiopulmonary resuscitation or other resuscitative measures because of complications arising out of health care being administered to the patient by the health care provider, health care institution, or health care facility. This subsection does not apply if the complications suffered by the patient are caused by reckless or intentional actions on the part of the health care provider, health care institution, or health care facility."

Renumber the following bill sections accordingly.

Page 6, line 4:

Delete "sec. 7"

Insert "sec. 5"

[4:10:33 PM](#)

REPRESENTATIVE GARDNER explained that this amendment is designed to ensure that, when a conflict arises between the needs of the care provider and the needs of the patient holding a DNR order, that "the needs of the care provider could never trump the

confirmed DNR desires of the individual even if the circumstances weren't dealing with the fatal illness." Further, she explained that the amendment inserts the terms "discipline" and "facilities" in title of the bill. The addition of "discipline", she said, "Is to avoid a care provider having an internal punishment for not resuscitating someone who held a DNR order." Because the contents of this amendment overlap with the previously adopted Amendment G.1, she noted that two deletions would need to be made. She instructed the committee to make the following change to the document [subsequently adopted as Amendment 2], by deleting the language on page 1, lines 5-6, which read:

Page 2, line 25, through page 3, line 10:  
Delete all material.

[4:14:40 PM](#)

JOHN DAWSON, Partner, Davis Wright and Tremaine Limited Liability Partnership (LLP); Representative, Providence Anchorage Anesthesia Medical Group, explained that this amendment eliminates the provisions which would allow a doctor to correct a physician error or disregard a DNR order, when the need for resuscitation is the result of a procedure not related to the qualifying condition. Although this effectively "ties the doctor's hands" the amendment provides the doctor with liability immunity for honoring a DNR order at all costs.

[4:15:47 PM](#)

REPRESENTATIVE SEATON pointed out that Mr. Dawson was addressing the amendment, page 1 beginning with line 20, but not the lines of the bill itself, page 4, lines 26-27, which he understood to be the area that Representative Gardner was referencing.

REPRESENTATIVE GARDNER concurred and directed the committee to disregard her previous request and to delete from the amendment [subsequently adopted as Amendment 2], page 1, lines 4-19, thus this ensures that a care provider who follows a DNR order, is not subject to a law suit.

CHAIR WILSON clarified and confirmed the changes to the amendment.

[4:17:19 PM](#)

REPRESENTATIVE GARDNER moved to adopt Amendment 2, 24-LS1618\G.2, Bannister 2/28/06.

[4:19:05 PM](#)

CHAIR WILSON clarified that Amendment 2 would now read as follows:

Page 1, line 4:

Delete "of health care providers and institutions"

Insert "and discipline of health care providers, institutions, and facilities"

Page 5, lines 3 - 12:

Delete all material and insert:

"\* **Sec. 7.** AS 13.52.080 is amended by adding a new subsection to read:

(c) A health care provider, health care institution, or health care facility is not subject to civil or criminal liability, or to discipline for unprofessional conduct, if a do not resuscitate order prevents the health care provider, health care institution, or health care facility from attempting to resuscitate a patient who requires cardiopulmonary resuscitation or other resuscitative measures because of complications arising out of health care being administered to the patient by the health care provider, health care institution, or health care facility. This subsection does not apply if the complications suffered by the patient are caused by reckless or intentional actions on the part of the health care provider, health care institution, or health care facility."

Renumber the following bill sections accordingly.

Page 6, line 4:

Delete "sec. 7"

Insert "sec. 5"

[4:20:37 PM](#)

REPRESENTATIVE SEATON asked whether Amendment 2 affects [page 4] line 26, which refers to a woman of childbearing age.

REPRESENTATIVE GARDNER clarified that this amendment provides liability immunity to a physician who honors a DNR order, save for reckless or intentional actions which do not uphold a professional standard of care.

[4:21:12 PM](#)

REPRESENTATIVE SEATON pointed out that Amendment 1 dealt with [page 4] lines 28-31 including the preceding "or" [line 27], and not line [26] which refers to a woman of child bearing age, thus it remains within the bill. He stated that his understanding of the intent of Amendment 2, is to protect the health care provider/institution from liability. He asked whether this language would allow a physician to demonstrate gross negligence and not be held responsible for their actions.

[4:22:17 PM](#)

REPRESENTATIVE GARDNER asked for the legal difference of negligent and reckless.

MS. TUPOU stated that negligence means "of neglecting to do things" and that's what you are allowing in this legislation; for the physician to not act and not correct an error, which is what precipitated the inclusion of the language "intention to be reckless" and "intentional action".

REPRESENTATIVE GARDNER stated that it is her understanding that under the usual standard of care a doctor could be found negligent; however, in the case of a DNR order a doctor is acting in an intentionally negligent manner. By following the patients DNR order, the doctor should not be held responsible or legally liable.

REPRESENTATIVE SEATON provided that it would be an egregious oversight if this bill provided language which would allow a doctor the latitude to err, for example "operate on the wrong leg," and be absolved of the responsibility.

[4:23:54 PM](#)

JOHN DAWSON said that the focus of the bill is to hold doctors free of liability where complications result from negligence. The bill does not distinguish between negligence and gross negligence because the distinction between the two terms is difficult even for the courts to determine. However, the distinction between negligence and recklessness is clear-cut and

a liability release for recklessness is excluded from this bill. A surgeon is negligent, if he overlooks something or makes a mistake, but if he knows that what he is engaging in will result in a particular complication, such conduct could be termed reckless. Disregarding a known risk is what constitutes recklessness and the courts are able to clearly delineate between these two terms. He conceded that he is not sure how the "wrong leg" scenario would be considered given these two terms, but he opined that it would be considered to represent more than negligence.

4:25:22 PM

REPRESENTATIVE SEATON maintained his concern for "the wrong leg" scenario and suggested that gross negligence should be included in the language of this bill. He stressed that a liability release for an act constituting gross negligence is not allowable under any circumstances.

REPRESENTATIVE GARDNER agreed, and stated that if complications arise from negligence, the doctor should be held liable, but if death occurs due to negligence for the purpose of honoring a DNR order, the doctor should be protected.

4:27:05 PM

MS. TUPOU stated:

It gets to what is the intent of the amendment. ... at what point do you want the doctor to rectify his ... mistake. That's why we're trying to deal with this in the liability section.

MS. TUPOU pointed out that if negligence is the action which the committee wishes a doctor to take then the original language of the bill should be maintained, and she reiterated the original bill language regarding secondary and qualifying conditions. She stressed that these two amendments disallow a doctor to correct a procedural error when a DNR order is in place, and said:

If you want doctors to carry that [DNR order] out I think you need to be clear ... about what [the doctors] ... liability is, here in this liability section, because if not, you're not going to get the patient's wishes honored, and ... [doctors] are going

to correct their mistakes for that secondary condition, which is what the bill initially did."

4:28:08 PM

REPRESENTATIVE CISSNA provided a hypothetical situation of a person who holds a DNR order and who manages to extricate themselves from a life support intensive care unit (ICU) system, only to be resuscitated and have the life support replaced by a health care provider. She asked how an intervention of this type would be handled.

MS. TUPOU responded that if a patient required life support for their primary qualifying condition, that would be specified in their DNR order, and this legislation only addresses secondary conditions. She requested clarity regarding the language of the amendments, and where the committee would like to place the responsibility for liability as discussed.

REPRESENTATIVE SEATON provided that the intent of this amendment is to hold a doctor liable for reckless behavior, and he stressed that it should also include language stipulating gross negligence. He suggested that the sponsor will have the opportunity to incorporate the intent of the amendment into the bill, prior to its review in a subsequent committee.

4:31:29 PM

REPRESENTATIVE SEATON moved Amendment 1 to Amendment 2 as follows:

Page 2, line 7, between the words "by" and "reckless"  
Insert "gross negligence,"

There being no objection, Amendment 1 to Amendment 2 was adopted.

There being no further objection, Amendment 2, as amended, was adopted.

4:32:12 PM

REPRESENTATIVE SEATON moved to report HB 442, Version 24-LS1618\G, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CS HB 442(HES) was reported out of the House Health, Education and Social Services Standing Committee.

HJR 31-FETAL ALCOHOL SPECTRUM DISORDERS DAY

4:32:36 PM

CHAIR WILSON [announced] that the next order of business would be HOUSE JOINT RESOLUTION NO. 31, Relating to designating September 9, 2006, as Fetal Alcohol Spectrum Disorders Awareness Day.

4:32:58 PM

JACQUELINE TUPOU, Staff to Representative Bruce Weyhrauch, Alaska State Legislature, presented HJR 31 on behalf of Representative Weyhrauch, Prime Sponsor, paraphrasing from the sponsor statement, which read as follows [original punctuation provided]:

House Joint Resolution 31 designates September 9, 2006 Fetal Alcohol Spectrum Disorders Awareness Day. Fetal Alcohol Spectrum Disorders are the single largest cause of mental retardation in Alaska and are one hundred percent preventable.

International FAS Awareness Day was first observed on September 9, 1999. It began when a small group of adoptive and foster parents of children afflicted with FAS and Fetal Alcohol Effect (FAE) came together on the Internet to ask this compelling question, "What if a world full of FAS and FAE parents all got together on the ninth hour of the ninth day of the ninth month of the ninth year and asked the world to remember that during the nine months of pregnancy a woman should not consume alcohol?"

The designation of FASD Awareness Day is intended to focus attention on the high cost of Fetal Alcohol Spectrum Disorders to our state and the ease of prevention. Currently, more American babies are born with FAS than with Down Syndrome, Muscular Dystrophy, and HIV combined. The simple fact is no alcohol consumed during pregnancy has been established safe for the fetus. If women do not drink any alcohol during their nine months of pregnancy, alcohol-related birth defects would be eliminated.

We ask Alaskans to come together at 9:09 am on September 9, 2006 for a "pregnant pause" to reflect on

preventing FASD's and also to remember throughout the year to continue to reach for the goal of eradicating Fetal Alcohol Spectrum Disorders.

The committee took an at-ease [4:34:39 PM](#) from to [4:35:11 PM](#).

[The committee returned to HJR 31 later in the meeting.]

[4:35:16 PM](#)

HB 271-LIMIT OVERTIME FOR REGISTERED NURSES

[4:35:29 PM](#)

CHAIR WILSON announced that the next order of business would be HOUSE BILL NO. 271, "An Act relating to limitations on overtime for registered nurses in health care facilities; and providing for an effective date."

CHAIR WILSON described the two subcommittee meetings that were held, resulting in the new version of the bill. She pointed out that the Governor's budget includes funding to increase the state employed nurses wages, providing a market competitive compensation. During the second meeting of the subcommittee, she reported, nurses from New Jersey, Oregon, and Washington responded to inquiries regarding the recently implemented bans on mandatory overtime in their states, and how it has been working for them. She explained that these states have each implemented a system which requires a nurse to lodge a complaint, thus instigating an investigation to identify and deal with a possible overtime infraction. The nurses who testified, unanimously affirmed that this system works well; however, there is no data available to back up their testimony, and the hospitals contacted did not offer comment.

CHAIR WILSON delineated the specific changes that the concerned "stakeholders" agreed to in the bill: the penalty aspect was removed, facilities will not incur a penalty should they use mandatory overtime; the bill excludes Certified Nurses Aides (CNAs), critical access hospitals are included in the bill; each facility is required to provide a semiannual report [to Department of Health and Social Services] showing monthly totals of mandatory overtime hours, voluntary overtime hours, on-call hours, and contract nurses hours; and the state nursing wage will be increased in the 2007 budget. She stressed the importance for having the data reported, and explained how it will be crucial for future analysis and planning. In response

to a question, she explained that the CNAs were excluded, as they are not affected by the mandatory overtime issue.

[4:43:15 PM](#)

CHAIR WILSON moved to adopt CSHB 271, Version 24-LS0j838\P, Bullock, 2/23/06, as the working document. There being no objection, Version P was before the committee.

[4:44:04 PM](#)

JOHN BITNEY, Lobbyist, Alaska Nurses Association (ANA), stated support for Version P, as a reasonable compromise that establishes a policy to allow nurses to say "no" to working overtime without fear of retribution, and the language acknowledges and respects a nurses' professional standard for responsive patient care.

[4:46:00 PM](#)

CHAIR WILSON directed the committee's attention to the written testimony provided by Rod Betit, President of the Alaska State Hospital & Nursing Home Association (ASHNHA), and suggested that they take a moment to review its contents.

The committee took an at-ease from [4:46:47 PM](#) to [4:47:13 PM](#).

[The committee returned attention to HB 271 later in the hearing.]

[4:47:22 PM](#)

#### HJR 31-FETAL ALCOHOL SPECTRUM DISORDERS DAY

CHAIR WILSON returned the committee's attention to HOUSE JOINT RESOLUTION NO. 31, Relating to designating September 9, 2006, as Fetal Alcohol Spectrum Disorders Awareness Day.

[4:47:33 PM](#)

JACQUELINE TUPOU, Staff to Representative Bruce Weyhrauch, Alaska State Legislature, resumed the presentation of HJR 31 on behalf of Representative Weyhrauch, Prime Sponsor, and pointed out that each year more children are born in America with fetal alcohol spectrum disorders (FASD) than with Down Syndrome, muscular dystrophy, and human immunodeficiency virus (HIV) combined. In urging the committee to swiftly pass this joint

resolution, she stated that if mothers are aware not to consume alcohol during pregnancy FASD is entirely avoidable.

CHAIR WILSON stressed that it is not often that there is a disease that is 100 percent avoidable as is FASD.

[4:48:21 PM](#)

REPRESENTATIVE GARDNER asked about the reference on page 1, line 14, to mental illness, and stated that she has not heretofore heard that FASD is a cause of mental illness.

MS. TUPOU responded that she is not qualified to answer that question, but stated that the language for this resolution primarily reflects what was drafted for a nation wide bill provided by the office of United States Senator Lisa Murkowski.

REPRESENTATIVE CISSNA interjected that some conduct and behavioral disorders of young children have been attributed to FASD, and asked her staff member, Cindy Folsom, to offer her opinion.

MS. TUPOU conjectured that perhaps mental illness is considered a secondary disability caused by FASD.

[4:50:22 PM](#)

CINDY FOLSOM, Staff to Representative Sharon Cissna, Alaska State Legislature, speaking from her experience as a retired school counselor, stated that it is true that FASD can cause conduct disorders, thus providing a context that could relate FASD to mental illness.

[4:50:50 PM](#)

REPRESENTATIVE GARDNER moved to report HJR 31, Version 24-LS1530\G, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HJR 31 was reported out of the House Health, Education and Social Services Standing Committee.

[4:51:01 PM](#)

HB 271-LIMIT OVERTIME FOR REGISTERED NURSES

CHAIR WILSON returned the committee's attention to HOUSE BILL NO. 271, "An Act relating to limitations on overtime for

registered nurses in health care facilities; and providing for an effective date."

[4:51:04 PM](#)

LAURIE HERMAN, Regional Director, Government Affairs, Alaska State Hospital and Nursing Home Association (ASHNHA), Providence Alaska Medical Center, stated support for CSHB 271, Version P, save opposition for Section 18.09.010, which provides that the nurse will be the sole determiner of whether overtime is appropriate, thus removing management from the process.

[4:52:27 PM](#)

REPRESENTATIVE GARDNER asked why it would not be appropriate for the individual to decide whether they could safely continue to work.

LAURIE HERMAN explained that the nurse makes the decision whether the overtime was mandatory or voluntary, for the purposes of filling out the monthly overtime report.

CHAIR WILSON clarified that the reports are generated by the hospitals, and it will be apparent to the individuals involved whether the overtime was mandatory or voluntary. She said, "That's the reality of what started the bill to begin with."

[4:53:55 PM](#)

REPRESENTATIVE GARDNER moved to report CSHB 271, Version 24-LS0838\P, Bullock, 2/23/06, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 271(HES) was reported out of the House Health, Education and Social Services Standing Committee.

[4:54:21 PM](#)

#### HCR 5-FLUORIDATION

CHAIR WILSON announced that the final order of business would be HOUSE CONCURRENT RESOLUTION NO. 5, Relating to support of community water fluoridation.

[4:54:38 PM](#)

KATHERINE SHOWS, Staff to Representative Paul Seaton, Alaska State Legislature presented HCR 5 on behalf of Representative

Seaton, Prime Sponsor, paraphrasing from the sponsor statement, which read as follows [original punctuation provided]:

House Concurrent Resolution 5 resolves to provide fluoridation in all Alaskan water systems. Fluoridated water has been shown to dramatically reduce dental carries, especially in children. It is one of the most efficient ways of providing cost effective preventative health care; every \$1 spent on fluoridation saves \$37 in future dental expenses. Currently, all cities in Alaska with a population exceeding 30,000 have access to fluoridated water. The benefits of fluoridated water should be extended to all Alaskans.

HCR 5 would also require all new water systems to be engineered with the capacity for incorporating fluoride. Communities would not be required to add fluoride but would have the ability to do so at a later date without costly retrofitting.

Tooth decay is a serious problem in Alaska, particularly in rural areas that do not exercise proper dental hygiene or eating habits, and where access to dentists is not available. Poor dental health puts a major burden upon Medicaid/Medicare programs.

Fluoridating community water systems is an investment in Alaska's public health that produces great returns. HCR 5 makes it clear that the State supports communities in taking this step to improve the dental health of their residents.

MS. SHOWS pointed out the letters of support in the committee packet, but also noted letters of opposition which she attributes to the fact that fluoride is a toxic chemical and can be harmful. She stated that the only known fatality from fluoride occurred in Hooper Bay, due to sustained over-fluoridation to the municipal water system. However, she noted that more strict regulations have been implemented by the Department of Environmental Conservation (DEC), since the Hooper Bay incident, which should preclude a recurrence of that type. Finally, she said that fluoride has been used in public water systems for about sixty years, its effectiveness is statistically supported by numerous studies, and 17 states currently require fluoridation in their public water systems.

4:57:18 PM

CHAIR WILSON pointed out that this bill in no way mandates a community to fluoridate their water, but does require that all new water systems be engineered to allow for the future administration of fluoride.

4:58:03 PM

REPRESENTATIVE GARDNER stated her support for the resolution, but expressed a concern for fluoridation and provided a brief history of her experience in Colorado Springs, Colorado, where clinical fluoride levels are natural to the water presenting adverse effects to some residents.

4:59:01 PM

REPRESENTATIVE KOHRING asked whether one of the primary chemical components of fluoride is not also a primary ingredient in rat poison. Further, he asked why it would be necessary to drink, bathe, and otherwise inundate our bodies via a systemic intake of fluoride versus requesting a topical, localized, personal application by a dental care provider.

MS. SHOWS responded that she is not familiar with the contents of rat poison. She said that the levels of fluoride provided in community water systems are at a low level and not considered harmful to humans. She pointed out that one of the greatest benefits of fluoride in a public water system is for people who do not have alternative access to fluoride or regular dental care.

REPRESENTATIVE KOHRING stated, "I'd be very concerned about having my children consume a chemical." Further, he asked if the sponsor had completed an in-depth analysis of the potential health risks associated with systemic ingestion of fluoride.

MS. SHOWS stated that the health problems are primarily fluorosis, which is a discoloration of the teeth, and possible bone density loss. She maintained that the Hooper Bay incident was an anomaly which cannot occur again provided the new administration standards. She reiterated that this is a bill which allows each community to choose fluoridation and does not impose a mandate.

REPRESENTATIVE KOHRING maintained his concern for encouraging the use of a chemical that carries a risk for potential health problems. He also questioned the oversight for its proper administration into the public water supply, and the possibility for concentrations of fluoride to occur in different parts of a water system.

[5:03:50 PM](#)

REPRESENTATIVE CISSNA has primarily lived where fluoridation is utilized, and the dentists and health professionals that she has consulted support the use of fluoride. She described the problems that she has witnessed in the remote villages due to the lack of dental care, where an eroded dental condition often results in a patient undergoing a costly emergency medical evacuation.

[5:06:08 PM](#)

WILLIAM MARLEY, Doctor of Dental Surgery (DDS), Chairman, Fluoridation Committee, Alaska Dental Society (ADS), stated support for HCR 5, which does not impose a mandate, or represent a cost to the state, but does provide leadership for state agencies to function in a unified manner. He suggested that the committee refer to the booklet Fluoride Facts, published in 1999, by the American Dental Association (ADA), for an in-depth understanding of the benefits of fluoridation. One study done in Alaska has indicated that children who drink fluoridated water experience 50 percent less dental disease. He maintained that fluoridation is an effective means to help people curb dental disease, especially if they fall in a lower socio-economic, class or otherwise have limited access to dental care. The Center for Disease Control (CDC) has begun the Healthy Families Initiative (HFI) which has issued a goal to fluoridate 75 percent of the United States water supply systems by the year 2010. The Alaska Department of Health and Social Services has signed onto the HFI.

[5:11:33 PM](#)

DR. MARLEY acknowledged the Hooper Bay casualty and explained how the oversight has been corrected with a certified two-operator system designed to eliminate errors in administration of this toxic chemical. He also described the natural fluoridated water phenomena of the southwest United States, explaining how in some cases the fluoride is removed as the recommended dosage is only one part per million. This allows

for minimal incidents of negative health side effects, which, he opined, are overridden by the dental health benefits. Continuing, he stressed that by encouraging the bush communities to fluoridate their water supplies, the dental needs of the residents would be reduced to the point that the dental care available in any village would be adequate. Finally, he pointed out that Article 7, Section 2, of the Alaska State Constitution says that "the legislature shall provide for the promotion and protection of the public health," and to that end, studies show that healthy teeth play an important role.

The committee took an at-ease from [5:18:12 PM](#) to [5:18:37 PM](#)

[5:18:38 PM](#)

REPRESENTATIVE CISSNA moved to report HCR 5, Version 24LS0327\Y out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HCR 5, Version Y was moved out of the House Health, Education and Social Services Standing Committee.

[5:18:58 PM](#)

CHAIR WILSON announced that, due to scheduling difficulties, the House Health, Education and Social Services Standing Committee meetings would be postponed until further notice.

#### **ADJOURNMENT**

There being no further business before the committee, the House Health, Education and Social Services Standing Committee meeting was adjourned at [5:19:20 PM](#).