

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

April 11, 2006

3:10 p.m.

MEMBERS PRESENT

Representative Peggy Wilson, Chair
Representative Paul Seaton, Vice Chair
Representative Tom Anderson
Representative Carl Gatto
Representative Sharon Cissna
Representative Berta Gardner

MEMBERS ABSENT

Representative Vic Kohring

COMMITTEE CALENDAR

HOUSE BILL NO. 467

"An Act relating to the administration of prescribed remedies and dietary supplements by a nurse."

- MOVED CSHB 467(HES) OUT OF COMMITTEE

CS FOR SENATE BILL NO. 177(HES)

"An Act eliminating the prohibition on the use by certain licensed professionals of titles or descriptions of services that incorporate the terms 'psychoanalysis,' 'psychoanalyst,' 'psychotherapy,' 'psychotherapeutic,' or 'psychotherapist.'"

- MOVED CSSB 177(HES) OUT OF COMMITTEE

HOUSE BILL NO. 426

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

- MOVED CSHB 426(HES) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 482(EDU)

"An Act relating to harassment, intimidation, and bullying in schools."

- MOVED CSHB 482(HES) OUT OF COMMITTEE

HOUSE BILL NO. 468

"An Act relating to disclosure of employment information on a medical assistance application and a hospital intake report; and requiring the Department of Health and Social Services to prepare and publicize a report pertaining to employers who do not provide health insurance."

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 29

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

- BILL HEARING CANCELED

PREVIOUS COMMITTEE ACTION

BILL: HB 467

SHORT TITLE: ADMINISTRATION OF MEDICATION BY A NURSE

SPONSOR(s): REPRESENTATIVE(s) KELLY

02/13/06	(H)	READ THE FIRST TIME - REFERRALS
02/13/06	(H)	HES, FIN
03/28/06	(H)	HES AT 3:00 PM CAPITOL 106
03/28/06	(H)	<Bill Hearing Postponed to 03/30/06>
03/30/06	(H)	HES AT 3:00 PM CAPITOL 106
03/30/06	(H)	-- Meeting Canceled --
04/04/06	(H)	HES AT 3:00 PM CAPITOL 106
04/04/06	(H)	<Bill Hearing Postponed to 04/06/06>
04/06/06	(H)	HES AT 3:00 PM CAPITOL 106
04/06/06	(H)	-- Rescheduled from 04/04/06 --
04/11/06	(H)	HES AT 3:00 PM CAPITOL 106

BILL: SB 177

SHORT TITLE: PRACTICE OF PSYCHOLOGY

SPONSOR(s): HEALTH, EDUCATION & SOCIAL SERVICES BY REQUEST

04/15/05	(S)	READ THE FIRST TIME - REFERRALS
04/15/05	(S)	HES, L&C
04/20/05	(S)	HES AT 1:30 PM BUTROVICH 205
04/20/05	(S)	Scheduled But Not Heard
01/25/06	(S)	HES AT 1:30 PM BUTROVICH 205
01/25/06	(S)	Heard & Held
01/25/06	(S)	MINUTE(HES)
02/01/06	(S)	HES AT 1:30 PM BUTROVICH 205
02/01/06	(S)	-- Rescheduled to 02/03/06 --
02/03/06	(S)	HES AT 1:30 PM BUTROVICH 205

02/03/06 (S) -- Rescheduled from 02/01/06 --
 02/06/06 (S) HES RPT CS 2DP 1NR NEW TITLE
 02/06/06 (S) DP: DYSON, ELTON
 02/06/06 (S) NR: GREEN
 02/14/06 (S) L&C AT 1:30 PM BELTZ 211
 02/14/06 (S) Moved CSSB 177(HES) Out of Committee
 02/14/06 (S) MINUTE(L&C)
 02/15/06 (S) L&C RPT CS(HES) 3DP 2NR
 02/15/06 (S) DP: BUNDE, SEEKINS, STEVENS B
 02/15/06 (S) NR: DAVIS, ELLIS
 02/22/06 (S) TRANSMITTED TO (H)
 02/22/06 (S) VERSION: CSSB 177(HES)
 02/24/06 (H) READ THE FIRST TIME - REFERRALS
 02/24/06 (H) HES, L&C
 03/28/06 (H) HES AT 3:00 PM CAPITOL 106
 03/28/06 (H) <Bill Hearing Postponed to 04/04/06>
 04/04/06 (H) HES AT 3:00 PM CAPITOL 106
 04/04/06 (H) <Bill Hearing Postponed to 04/06/06>
 04/06/06 (H) HES AT 3:00 PM CAPITOL 106
 04/06/06 (H) -- Rescheduled from 04/04/06 --
 04/11/06 (H) HES AT 3:00 PM CAPITOL 106

BILL: HB 426

SHORT TITLE: MEDICAL ASSISTANCE FOR PERSONS UNDER 21
 SPONSOR(s): REPRESENTATIVE(s) COGHILL

02/06/06 (H) READ THE FIRST TIME - REFERRALS
 02/06/06 (H) HES, FIN
 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
 02/28/06 (H) Scheduled But Not Heard
 03/16/06 (H) HES AT 3:00 PM CAPITOL 106
 03/16/06 (H) -- Meeting Canceled --
 03/21/06 (H) HES AT 3:00 PM CAPITOL 106
 03/21/06 (H) Heard & Held
 03/21/06 (H) MINUTE(HES)
 03/28/06 (H) HES AT 3:00 PM CAPITOL 106
 03/28/06 (H) <Bill Hearing Postponed to 03/30/06>
 03/30/06 (H) HES AT 3:00 PM CAPITOL 106
 03/30/06 (H) -- Meeting Canceled --
 04/04/06 (H) HES AT 3:00 PM CAPITOL 106
 04/04/06 (H) <Bill Hearing Postponed to 04/11/06>
 04/11/06 (H) HES AT 3:00 PM CAPITOL 106

BILL: HB 482

SHORT TITLE: SCHOOL:BULLYING/HARASSMENT/INTIMIDATION

SPONSOR(s): REPRESENTATIVE(s) ANDERSON

02/13/06 (H) READ THE FIRST TIME - REFERRALS
02/13/06 (H) EDU, HES, JUD
03/16/06 (H) EDU AT 11:00 AM CAPITOL 106
03/16/06 (H) Moved CSHB 482(EDU) Out of Committee
03/16/06 (H) MINUTE(EDU)
03/20/06 (H) EDU RPT CS(EDU) 1DNP 3NR 1AM
03/20/06 (H) DNP: LYNN;
03/20/06 (H) NR: GARA, THOMAS, NEUMAN;
03/20/06 (H) AM: GATTO
04/03/06 (H) FIN REFERRAL ADDED AFTER JUD
04/04/06 (H) HES AT 3:00 PM CAPITOL 106
04/04/06 (H) <Bill Hearing Postponed to 04/06/06>
04/06/06 (H) HES AT 3:00 PM CAPITOL 106
04/06/06 (H) -- Rescheduled from 04/04/06 --
04/10/06 (H) JUD AT 1:00 PM CAPITOL 120
04/10/06 (H) <Bill Hearing Postponed to 04/12/06>
04/11/06 (H) HES AT 3:00 PM CAPITOL 106

BILL: HB 468

SHORT TITLE: HEALTH CARE DISCLOSURE

SPONSOR(s): REPRESENTATIVE(s) GRUENBERG

02/13/06 (H) READ THE FIRST TIME - REFERRALS
02/13/06 (H) HES, FIN
03/28/06 (H) HES AT 3:00 PM CAPITOL 106
03/28/06 (H) <Bill Hearing Postponed to 03/30/06>
03/30/06 (H) HES AT 3:00 PM CAPITOL 106
03/30/06 (H) -- Meeting Canceled --
04/04/06 (H) HES AT 3:00 PM CAPITOL 106
04/04/06 (H) Heard & Held
04/04/06 (H) MINUTE(HES)
04/11/06 (H) HES AT 3:00 PM CAPITOL 106

WITNESS REGISTER

DEREK MILLER, Staff
to Representative Michael "Mike" Kelly
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced the Committee Substitute (CS) to
HB 467 on behalf of Representative Kelly, sponsor.

RICK SHIKORA, Certified Public Accountant (CPA)
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of CSHB 467, Version F.

CATHERINE GIESSEL, Master of Science in Nursing (MSN)
Registered Nurse (RN)
Advanced Nurse Practitioner (ANP);
Chairperson, Alaska Board of Nursing (ABN)
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition of HB 467.

MICHAEL ELLENBURG, Medical Doctor (MD)
Comprehensive Medicine, Limited Liability Company (LLC)
Anchorage, Alaska

POSITION STATEMENT: Testified on HB 467.

JASON HOOLEY, Staff
to Senator Fred Dyson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SB 177 on behalf of Senator Dyson, sponsor.

ANNE HENRY
Anchorage, Alaska

POSITION STATEMENT: Offered to respond to questions on SB 177.

JOHN MILLER, Ph.D., Psychologist;
Member, Board of Psychologists and Psychological Examiners
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 177.

RYNNIEVA MOSS, Staff
to Representative John Coghill
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced CSHB 426, Version L, on behalf of Representative Coghill, sponsor,

STACIE KRALY, Chief Assistant Attorney General
Statewide Section Supervisor
Human Services Section;
Civil Division
Department of Law (DOL)
Juneau, Alaska

POSITION STATEMENT: Testified on HB 426.

CRYSTAL NOVOTNEY, Staff

to Representative Tom Anderson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced HB 482, on behalf of
Representative Anderson, prime sponsor.

KATIE SINGLETON,
Bye-Bye Bullies
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 482.

CINDY FOLSOM, Staff
to Representative Sharon Cissna
Alaska State Legislature;
Retired School Counselor
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 482, Amendment
1.

REPRESENTATIVE KELLY
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified on HB 467, as sponsor.

ACTION NARRATIVE

CHAIR PEGGY WILSON called the House Health, Education and Social
Services Standing Committee meeting to order at [3:10:32 PM](#).
Representatives Gardner, Anderson, Cissna, and Wilson were
present at the call to order. Representatives Gatto and Seaton
arrived as the meeting was in progress.

HB 467-ADMINISTRATION OF MEDICATION BY A NURSE

[3:10:42 PM](#)

CHAIR WILSON announced that the first order of business would be
HOUSE BILL NO. 467, "An Act relating to the administration of
prescribed remedies and dietary supplements by a nurse."
[Before the committee was HB 467, Version 24-LS1265\G.]

[3:12:13 PM](#)

[Treated as adopted and before the committee was CSHB 467,
Version 24-LS1265\F, Mischel, 4/7/06.]

DEREK MILLER, Staff to Representative Michael "Mike" Kelly, Alaska State Legislature, introduced the Committee Substitute (CS) to HB 467, paraphrasing from a written statement which read as follows [original punctuation provided]:

- 1) Would we be permitting nurses to administer non-prescribed dietary supplements based on the language in page 1, line 5?

Answer: No we would not, because the definition of "prescribed remedy or dietary supplement" beginning on page 1, line 14 of the bill addresses this concern.

- 2) Does this bill only allow the administration of remedies and dietary supplements if an Advanced Practice Nurse (APN) prescribes them, or does it encompass all professionals with prescriptive authority?

Answer: No, under Title 8 Advanced Nurse Practitioners, physicians, physician assistants, dentists and podiatrists can prescribe.

- 3) How can we insert language into the bill that will ensure that the Board of Nursing and the nursing community at-large incorporate safeguards or a set of guidelines for nurses to follow for administration of dietary supplements?

Answer: Yes, and I will provide a CS for the committee to adopt with the language that would charge the Board of Nursing to establish standards and regulations for the administration of prescribed remedies and dietary supplements.

[3:15:16 PM](#)

RICK SHIKORA, Certified Public Accountant (CPA), stated support for CSHB 467, Version F, and paraphrased from the following written statement [original punctuation provided]:

My 98 year old grandmother is a resident of the Fairbanks Pioneers' home and is the reason this bill is before you today. But i didn't ask that this issue be addressed just for her benefit, but for many similarly situated individuals.

The board of nursing in its own testimony has indicated that it has not resolved this issue despite its being up before it three or four times.

I will attend the upcoming June meeting of the board of nursing to help them with ideas for the regulations. I have previously provided them with some of my thoughts in policy form and that document could easily be a base with which to start.

I wholeheartedly support committee substitute for hb467 as it provides clear direction for the board to address this critical issue, yet leaves them with the latitude to make sure that the most paramount issue, safety of the patient, is protected.

I urge you to pass this committee substitute today.

[3:17:17 PM](#)

CATHERINE GIESSEL, Master of Science in Nursing (MSN), Registered Nurse (RN), Advanced Nurse Practitioner (ANP); Chairperson, Alaska Board of Nursing (ABN), testified in opposition to HB 467 and maintained her initial concerns for this legislation stating:

You are asking [the Board of Nursing] to establish standards for something that is non-approved. That is ... contradictory [because] standards refer to creating a level of quality or excellence that is acceptable as the norm. ... I'm not sure that [standard] is the proper term to use. ... In line 9, page 1, it talks about the Board of Nursing including in these standards safeguards. Essentially what you're asking the Board of Nursing to undertake is a task that the federal government, with all of its resources has not undertaken to do, and that is to assure safeguards. We have established a safeguard and that is that these substances are not safe. ... I'm not quite sure how ... that standard could be attained. It goes on in the CS to say ... [page 1], line 11, "[standards must include safeguards that prevent the administration] ... if the prescription is for an amount of the remedy or supplement that is outside the manufacturer's recommended dosage for ... a patient of the same physical condition." ... You're

asking [nurses] to go by the manufacturer's recommended dosage. The manufacturers are the financial beneficiaries of this product, therefore have a vested interest in how much of it they're selling. Why would we consider the manufacturer's recommended dosage reliable? [Manufacturers] have no liability for adverse responses to these products; these substances are not regulated [and] the recommended dosage varies between manufacturers. ... I'm not sure you're creating a standard or a level of excellence that is attainable. At the end of that sentence it refers to a patient of the same physical condition. For a registered nurse to establish the physical condition of a patient, ... would require her to actually do a medical examination and make a medical diagnosis; this falls outside of her scope of practice. When I look at the definition ... [page 2], [line 3], ... referring to herbal, and vitamin remedies. I would point out that the two supplements ... brought to the boards attention ... [are neither] herbs or vitamin remedies. I would perhaps suggest that Representative Kelly might want to look at that definition I would also bring to the committee's attention SB 313. This bill would... [place] an herb ... into the category of a class two controlled substance. ... On a database called Up-To-Date ... [an] article on this particular family of herbs [describes] the kidney disease ... caused from [the herb] ... being given in a weight reduction clinic. ... I hope [this] ... illustrate[s] to you the unregulated and dangerous position that these herbs and substances are in. ... I don't know if you have yet received the letter from ... [two] pharmacist [s] ... in Anchorage. Both of these letters will be in support of the board's position that [the administration of supplements] is an unsafe practice.

[3:23:17 PM](#)

CHAIR WILSON asked whether Ms. Giessel could suggest language and terms that would help to improve this bill and make it more workable and inclusive.

[3:23:52 PM](#)

MS. GIESSEL offered the term "dietary supplement" be incorporated to encompass some of the supplements discussed.

However, she opined that a language change would not bring the bill into line with the Board of Nursing's stance. She offered to provide further data to illustrate that supplements are "dangerous" and not benign substances that can be taken without concern.

[3:25:02 PM](#)

REPRESENTATIVE ANDERSON asked who endorses the legislation as it is currently written.

MR. MILLER directed attention to the letters in the committee's packet, including one from the Alaska Nurses Association (ANA) indicating the recommendations/action they have taken on this bill.

REPRESENTATIVE ANDERSON inquired on whose behalf Ms. Giessel was testifying.

MS. GIESSEL indicated that she represents and speaks on behalf of the Alaska Board of Nursing (ABN), and that she has no affiliation with the ANA.

CHAIR WILSON pointed out the letter of support received from the Alaska State Nursing Home Association (ASNHA).

REPRESENTATIVE ANDERSON clarified:

[Ms. Giessel] ...the Board of Nursing has authorized you, the Board of Nursing meaning under the Department of Occupational Licensing, ... the peer review that licenses nurses in the industry, ... have requested that you testify today.

MS. GIESSEL replied, "You are correct."

[3:27:10 PM](#)

CHAIR WILSON opined that the language of the bill provides latitude for the board to comply with the nursing regulations, and that perhaps the term "guidelines" rather than "standards" could prove helpful. She suggested that the board could stipulate appropriate requirements to ensure safeguards such as a provision that a supplement must carry an endorsement stamp from the United States Pharmacopeia (USP).

[3:28:09 PM](#)

MR. MILLER stated that these points are what the ANA expects to bring before the Board of Nursing, for creating safeguards in implementing this bill.

[3:28:38 PM](#)

CHAIR WILSON established that subsequently the bill will be in the Finance Committee.

REPRESENTATIVE CISSNA described her own usage of dietary supplements without adverse effects, concern from her health care provider, or research literature that would cause alarm. She asked, "Why is [taking a supplement] so dangerous?"

[3:30:10 PM](#)

MS. GIESSEL established that this bill is being written for the use of a myriad of supplements. She pointed out that the situation under which a healthy outpatient self administers supplements, is a different scenario than having these supplements administered to a category of people in resident facilities, who may have multiple disease diagnoses and who are taking multiple medications. She stressed the vulnerability of this class of patients and maintained concerns for side effects, allergic reactions, and the viability of a supplement product.

[3:33:06 PM](#)

REPRESENTATIVE CISSNA stated that it is her understanding that current law allows nurses the choice to abstain from administering a substance if they so choose.

[3:33:32 PM](#)

MS. GIESSEL clarified that it is not law which provides that possibility but rather the ethical code of nursing. She offered a summary of the position originally established by the Board of Nursing in the late 1990's:

Because we cannot assure the purity of the substance[s] ..., the Board of Nursing has taken the position that it is outside the scope of practice for a registered nurse to administer nutritional supplements, herbal or homeopathic supplements, or other non-FDA approved medications.

MS. GIESSEL directed attention to the committee packet and the example provided in the Alaska Board of Nursing Position Paper, March 2006, page 2, paragraph 3, which provides an example of how this ethical code is implemented.

[3:34:59 PM](#)

CHAIR WILSON asked whether a nurse would have her license revoked if she violated the code of ethics.

MS. GIESSEL responded that violations of the Nurse Practice Act are scrutinized on an individual basis, making it difficult to make a blanket statement of what might be imposed. However, it is a possibility that a license could be revoked if a complaint were filed and found to be justified.

[3:35:28 PM](#)

MR. MILLER held forth Representative Kelly's position stating:

The facilities are equipped with the proper tools to enable them to be able to follow through with a policy like this; between the doctors, the pharmacies and the pharmacists, the facility, the administrators ... the patient willingness, the willingness of the nurse, and ... the patient need for some of these supplements, that we can go ahead and move forward with this policy.

MR. MILLER pointed out that this effectively involves six or seven levels of safeguards prior to a supplement reaching the patient. Despite these layers of protection, because of the current Board of Nursing policy, facility residents are not able to receive these supplements, hence the frustration of those people who would choose to receive or to administer these supplements.

[3:36:38 PM](#)

REPRESENTATIVE GARDNER requested a synopsis of the Board of Nursing mission statement.

[3:36:51 PM](#)

MS. GIESSEL pointed out that it is in the committee packet and stated it as: "To ensure public safety through the regulation

of safe nursing practice." She explained that when the board writes a policy or takes a position they look at the implications with a broad population in mind. Referring to Mr. Miller's remarks, she said that there are pharmacists who are aligned with the Board of Nursing position on this issue, and she pointed out that assisted living homes do not have affiliated pharmacists.

[3:38:09 PM](#)

REPRESENTATIVE ANDERSON stated his understanding that the Board of Nursing is against the administering of these remedies or dietary substances, in residential facilities because "of the fear that they are dangerous in many respects and the nurses may not have an understanding of their effects."

[3:38:47 PM](#)

MS. GIESSEL clarified that it is not fear but a conclusion drawn from documented scientific review, based on clinical evidence. She stated:

[The board] has taken ... an objective impartial look at the medical evidence that is available which does not support these as safe substances. And that's the basis of our decision.

REPRESENTATIVE ANDERSON agreed that taking an excessive amount of a supplement may cause harm, and asked to have a doctor provide an opinion.

MICHAEL ELLENBURG, M.D., Comprehensive Medicine, Limited Liability Company ((LLC), agreed with the concern for administering supplements in an assisted living home where a formulary would need to be established and drug interaction scrutinized. He opined that there could be various negative results when combining supplements with other medications. However, he opined that supplements could be used safely.

REPRESENTATIVE ANDERSON suggested that Dr. Ellenburg's testimony is helpful in providing an additional opinion for parties interested in this bill. As this bill passes to the Finance Committee, he offered that it will carry with it an objective to attempt to delineate safe quantities.

CHAIR WILSON stated that the legislature will not be making those decisions. The bill provides for appropriate restrictions to be made at the board level.

REPRESENTATIVE ANDERSON pointed out that it would be important to continue the process of moving this bill, and given the calendar it would be imperative to move it from this committee today.

CHAIR WILSON stated that the bill would be set aside for discussion later today.

REPRESENTATIVE GARDNER expressed her reason for not supporting the bill, stating:

This bill is asking the Board of Nursing to make a finding that is possibly contrary to their mission statement. ... I ... don't feel, ... as a non-medical professional person, ... as a legislator, that I have the authority, the expertise to tell [the board] ... to do something that they disagree with medically.

[3:45:48 PM](#)

MR. MILLER maintained that by denying this bill we deny access of people in resident facilities to certain substances which they want and need. Neither does the bill require that nurses administer anything unwillingly. He opined that this is a common sense approach to this problem, and further, said that it is not contradictory to the mission of the Board of Nursing. It could be argued that the mission is not being fulfilled by denying the administration of these dietary supplements and remedies that the patient's request, he suggested.

[3:46:44 PM](#)

CHAIR WILSON said that passage of this bill puts it in the hands of the Board of Nursing for implementation.

REPRESENTATIVE GARDNER said that access to supplements is not being denied, but if the Board of Nursing ascertains that it is outside the scope of practice for nurses to administer supplements, other support would need to be employed for that service. She opined that if the Board of Nursing does not support this action by nurses, it would not be appropriate for the legislature to contravene that decision.

[3:48:07 PM](#)

REPRESENTATIVE CISSNA offered that the bill language affords latitude to provide a broad spectrum result, which should protect everyone involved. Further, she stated a personal desire for the future possibility that supplements be appropriately reviewed and clinically administered in residential facilities.

[3:49:33 PM](#)

REPRESENTATIVE ANDERSON suggested holding the bill.

CHAIR WILSON set the bill aside for further consideration later in today's meeting.

[3:50:06 PM](#)

SB 177-PRACTICE OF PSYCHOLOGY

CHAIR WILSON announced that the next order of business would be CS FOR SENATE BILL NO. 177(HES), "An Act eliminating the prohibition on the use by certain licensed professionals of titles or descriptions of services that incorporate the terms 'psychoanalysis,' 'psychoanalyst,' 'psychotherapy,' 'psychotherapeutic,' or 'psychotherapist.'"

[3:50:25 PM](#)

JASON HOOLEY, Staff to Senator Fred Dyson, Alaska State Legislature, presented SB 177, on behalf of Senator Dyson, paraphrasing from the sponsor statement which read as follows [original punctuation provided]:

AS 08.86.180 prohibits professionals-except for licensed psychologists and clinical social workers-from using certain terms to describe their services or their titles. These terms include: "psychology," "psychological," "psychologist," "psychometry," "psychotherapy," "psychotherapeutic," "psychotherapist," "psychoanalysis," and "psychoanalyst." This statute was written prior to the licensure of professional counselors (LPCs) and marital and family therapists (LMFTs), who also provide these types of psychological services. LPCs and LMFTs constitute a large portion of Alaska's licensed mental health professional workforce, and are

an even larger percentage of professionals working in state funded community mental health centers.

CS SB 177 (HES) was composed with the collaboration of the Alaska Board of Licensed Professional Counselors, the Alaska Psychological Association, the Alaska Board of Psychologist and Psychological Associate Examiners, the Alaska Chapter of the National Association of Social Workers, the Alaska Board of Marital and Family Therapists, and the Alaska Board of Social Work Examiners.

SB 177 updates these statutes to reflect current practice and training as well as maintaining a degree of protection to the public. The language affects licensed clinical social workers, licensed marital and family therapists, and licensed professional counselors and explicitly allows these licensed professionals to provide and bill for these services.

[3:53:26 PM](#)

ANNE HENRY, offered to answer questions on SB 177.

[3:53:44 PM](#)

JOHN MILLER, Ph.D., Psychologist; Member, Board of Psychologists and Psychological Examiners, stated support for SB 177, and agreed with Mr. Hooley's testimony. He said that the licensed mental health professionals and groups, which he has been in contact with, also support this bill.

The committee took an at-ease from 3:54:12 p.m. to 3:54:44 p.m.

[3:54:44 PM](#)

REPRESENTATIVE ANDERSON moved to report CSSB 177(HES), Version 24-LS0893\G, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSSB 177(HES), Version G, was reported from the House Health, Education and Social Services Standing Committee.

The committee took an at-ease from 3:55p.m. to 3:56 p.m.

HB 426-MEDICAL ASSISTANCE FOR PERSONS UNDER 21

[3:56:12 PM](#)

CHAIR WILSON announced that the next order of business would be HOUSE BILL NO. 426, "An Act relating to medical assistance eligibility and coverage for persons under 21 years of age."

[3:56:34 PM](#)

REPRESENTATIVE ANDERSON moved to adopt CSHB 426, Version 24-LS1602\L, Mischel, 3/24/06, as the working document. There being no objection, CSHB 426, Version L was before the committee.

CHAIR WILSON

[3:57:02 PM](#)

RYNNIEVA MOSS, Staff to Representative John Coghill, Alaska State Legislature, introduced CSHB 426, Version L, on behalf of Representative Coghill, sponsor, and explained that the committee substitute (CS) eliminates Section 6, which considered the father's income for Medicaid qualification. Additionally, language was added to Section 8 in order to clarify the intent of the bill regarding the limits for applying to receive Medicaid. She went on to compare the amendments offered on the bill from Representatives Cissna and Coghill pointing out the additional language to subparagraph (C) in Version L.1:

Amendment to CSHB426, Version 24-LS1602\L.1, Mischel, 4/11/06, offered by Representative Cissna, read:

Page 1, line 4, following "**eligibility;**":

Insert "**relating to home and community-based services;**"

Page 7, following line 24:

Insert a new bill section to read:

"* **Sec. 8.** AS 47.07 is amended by adding a new section to read:

Sec. 47.07.045. Home and community-based services. (a) A person who is eligible for medical assistance coverage may be paid for home and community-based services under a waiver approved by the federal government if the person is approved initially and at least once a year thereafter for the services by the department based on an assessment described in regulation that finds that the person meets a level of care necessary for admission to an

intermediate care facility for the mentally retarded or to a nursing facility.

(b) The department may not terminate payment for approved home and community-based services unless, at any time,

(1) the recipient of the services scores below the eligibility standard on the assessment employed under (a) of this section; and

(2) the score is reviewed by an independent qualified health care professional who certifies that the recipient's condition has materially improved from the previous assessment.

(c) In this section,

(1) "independent qualified health care professional" means a

(A) registered nurse licensed under AS 08.68 who is qualified to assess children with complex medical conditions, older Alaskans, and adults with physical disabilities for medical assistance waivers; and

(B) a person who is qualified under 42 CFR 483.430 as a mental retardation professional for the mental retardation and developmental disability waiver;

(2) "materially improved" means that the recipient has previously qualified for a waiver for

(A) children with complex medical conditions, no longer needs technical assistance for a life-threatening condition, and is expected to be placed in a skilled nursing facility for less than 30 days each year;

(B) mental retardation or developmental disability, no longer needs the level of care provided by an intermediate care facility for the mentally retarded either because the qualifying diagnosis has changed or the recipient is able to demonstrate the ability to function in a home setting without the need for waiver services; or

(C) older Alaskans or adults with physical disabilities, no longer has a functional limitation or cognitive impairment that would result in the need for nursing home placement, and is able to demonstrate the ability to function in a home setting without the need for waiver services."

Renumber the following bill sections accordingly.

Page 8, line 21:
Delete "sec. 11"
Insert "sec. 12"

Amendment to CSHB, Version 24-LS1602\I.1, Mischel, 3/16/06, by Representative Coghill, read:

Page 1, line 4, following "**eligibility;**":
Insert "**relating to home and community-based services;**"

Page 8, following line 12:
Insert a new bill section to read:
"* **Sec. 9.** AS 47.07 is amended by adding a new section to read:

Sec. 47.07.045. Home and community-based services. (a) A person who is eligible for medical assistance coverage may be paid for home and community-based services under a waiver approved by the federal government if the person is approved initially and at least once a year thereafter for the services by the department based on an assessment described in regulation that finds that the person meets a level of care necessary for admission to an intermediate care facility for the mentally retarded or to a nursing facility.

(b) The department may not terminate payment for approved home and community-based services unless, at any time,

(1) the recipient of the services scores below the eligibility standard on the assessment employed under (a) of this section; and

(2) the score is reviewed by an independent qualified health care professional who certifies that the recipient's condition has materially improved from the previous assessment.

(c) In this section,

(1) "independent qualified health care professional" means a

(A) registered nurse licensed under AS 08.68 who is qualified to assess children with complex medical conditions, older Alaskans, and adults with physical disabilities for medical assistance waivers; and

(B) a person who is qualified under 42 C.F.R. 483.430 as a mental retardation professional

for the mental retardation and developmental disability waiver;

(2) "materially improved" means that the recipient has previously qualified for a waiver for

(A) children with complex medical conditions, no longer needs technical assistance for a life-threatening condition, and is expected to be placed in a skilled nursing facility for less than 30 days each year;

(B) mental retardation or developmental disability, no longer needs the level of care provided by an intermediate care facility for the mentally retarded either because the qualifying diagnosis has changed or the recipient is able to demonstrate the ability to function in a home setting without the need for waiver services; or

(C) older Alaskans or adults with physical disabilities, no longer has a functional limitation or cognitive impairment that would result in the need for nursing home placement."

Renumber the following bill sections accordingly.

Page 9, line 9:

Delete "sec. 12"

Insert "sec. 13"

MS. MOSS stated that within the last nine months, clients have been removed from Medicaid waivers despite the fact that their physical conditions and needs have not changed. She expressed appreciation for the language which Representative Cissna has provided in Amendment, Version L.1, to ensure against this type of action continuing.

STACIE KRALY, Chief Assistant Attorney General, Statewide Section Supervisor, Human Services Section; Civil Division, Department of Law (DOL), stated that Amendment, Version L.1, had been reviewed and no substantive issues were found.

[4:00:15 PM](#)

REPRESENTATIVE CISSNA moved Amendment 1, labeled 24-LS1602\L.1, Mischel, 4/11/06, [text provided previously].

REPRESENTATIVE ANDERSON objected for discussion.

MS. KRALY explained that the purpose of this amendment was to address a litigation issue which the Department of Health and Social Services is currently involved with, to wit:

[The issue being] whether or not [Department of Health and Social Services] are required to demonstrate that an individual has materially improved prior to terminating them from a waiver services. Home and community based waiver services are provided to a number of individuals in ... Alaska, and in order to qualify for a waiver [the individual] must ... have a qualifying diagnosis ... [or] meet a level of care that would either be obtained in an intermediate care facility for the mentally retarded or a nursing facility. ... Upon assessment and eligibility [an individual] must be annually re-assessed, by federal and state law. ... Upon re-assessment there has been an allegation that [the department] must show material improvement.

MS. KRALY provided the department's position to be that the assessment tool used by DHSS quantifies improvement, however, this amendment would further clarify the process and allow for an additional eligibility review; possibly bringing resolution to the current litigation.

REPRESENTATIVE ANDERSON offered to remove his objection.

REPRESENTATIVE CISSNA echoed Ms. Kraly's explanation of the amendment, and added that the outlook for a senior is different than the expectation held for a child's future. She stated that the amendment stipulates appropriate expectations for a senior; that they may aspire to a situation of requiring the least restrictive services.

[4:03:41 PM](#)

MS. KRALY agreed and pointed out that goals for seniors and adults are also different. She stated that circumstances could, given the fluidity of life, allow for someone of any age to have a waiver terminated. What needs to be clearly articulated, she opined, is that a waiver is not necessarily for the rest of your life. She provided various reasons why individuals might be terminated from a waiver program: a general improvement of condition; non-waived services are made available; or other support services are made available which require waiver

termination. The annual re-assessment for eligibility is conducted for this non-presumptive reason, she pointed out.

CHAIR WILSON agreed with the need to continue the re-assessment program for continuation of services.

[4:06:10 PM](#)

MS. MOSS stated:

The term used in this amendment, ... "materially improved" helps in that direction, however, ... what we would like to see happen during the interim, ... [is legislation] to bring payment for services closer to an acuity based schedule.

REPRESENTATIVE ANDERSON removed his objection to the amendment. There being no further objection, Amendment 1 was adopted.

REPRESENTATIVE ANDERSON moved to report CSHB 426, Version 24-LS1602\L, Mischel, 3/24/06, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE GATTO objected and asked for clarity for voting purposes. Upon response he removed his objection.

CHAIR WILSON announced that hearing no further objection, CSHB 426(HES) was reported out of the House Health, Education and Social Services Standing Committee.

The committee took an at-ease from [4:08:28 PM](#) to [4:09:13 PM](#).

[4:09:13 PM](#)

HB 482-SCHOOL:BULLYING/HARASSMENT/INTIMIDATION

CHAIR WILSON announced that the next order of business would be HOUSE BILL NO. 482, "An Act relating to harassment, intimidation, and bullying in schools."

[4:09:26 PM](#)

REPRESENTATIVE ANDERSON moved to adopt CSHB 482, Version 24-LS0053\L, Luckhaupt, 4/10/06, as the working document. There being no objection, CSHB 482, Version L, was before the committee.

4:10:12 PM

CRYSTAL NOVOTNEY, Staff to Representative Tom Anderson, Alaska State Legislature, introduced HB 482, on behalf of Representative Anderson, prime sponsor, paraphrasing from the following written statement [original punctuation provided]:

Clearly, bullying in our schools is a problem. It is an issue with lasting effects resulting in problems from poor academic performance on one end of the spectrum to incidents of horrific and tragic violence on the other.

It has been suggested that on some level perhaps some degree of bullying is "necessary" as part of growing up and developing the coping and conflict resolution skills required for adult life. However, there is a vast difference between "peer conflict" and "bullying". Granted, at some point in each of our lives, we may be "picked on" or "put down" and experience periods of relative unpopularity. While these experiences are not pleasant, and may indeed be valuable in developing critical life skills, generally they do not rise to the level of bullying.

Bullying is a consistent and systematic process of degradation, humiliation, and violence. Bullying is intended to control and dominate a person by fear and intimidation. I believe people who suggest that bullying is a good thing; have never been exposed to it. Some cite athletic coaches or military drill instructors as examples of those who use bullying effectively. However the challenges, difficulties and motivational techniques those positions, and others like them, employ are ultimately designed to improve a person, to encourage a person to challenge themselves and to exceed their own expectations. Coaches and drill instructors gain no benefit in exposing those in their charge to routine and systematic humiliation with no other end than the ultimate destruction of a person's self-esteem and self-worth. To the contrary, their sometimes-harsh treatment is designed to build them up.

Furthermore addressing bullying is as critical to the victims as to the bully themselves. There is no question the damage bullying inflicts on the victim,

but in considering this issue, we often overlook the long-term social damage to and from bullies by, at least, tacitly condoning their behavior. A number of studies have shown that bullies are at a much greater risk of criminal conduct and substance abuse. One study shows that 60% of males who were identified as bullies during grades six through nine were convicted of at least one crime as an adult and that thirty-five (35%) to forty (40%) had three or more convictions by the age of 24. As policymakers it is as much our obligation to protect those victimized by bullies, as it is to correct bullying behavior that prevents some of our young people from realizing a successful life and the behavior that ultimately costs us so much.

[4:13:45 PM](#)

REPRESENTATIVE ANDERSON suggested that Ms. Novotney direct the committee through the [sub]sections of HB 482 and highlight the important aspects of each. Demonstrating, he said:

That first [sub]section [(a)] ... [says that] a school district may adopt by 2007 a policy prohibiting harassment, intimidation, and bullying of any student. And then the district shares this policy with parents and guardians, students, volunteers, school employees, ... basically saying ... we have a policy [subsection] (b) ... where [the districts] adopt the standard policy for procedures for everyone to follow.

REPRESENTATIVE ANDERSON stressed that these (sub)sections inform school districts that they may adopt a policy.

MS. NOVOTNEY explained that (sub)section (c) establishes the deadline of January 1, 2007, when the Department of Education (DOE), and other interested or related community parties, may provide a school with a model policy particular to the interests of the district.

REPRESENTATIVE GATTO noted the change in this section from the original language.

MS. NOVOTNEY pointed out that Version I used the word "shall" in (sub)section (c), but that word and other language has been changed in Version L.

4:16:46 PM

REPRESENTATIVE ANDERSON asked for an explanation of the rationale behind establishing the 2007-2008 scholastic year for school districts to initiate reporting to DOE.

MS. NOVOTNEY explained that by setting the date forward it would provide time for the school districts to amalgamate their efforts in creating and implementing policy and procedures. Further, the November 30, 2007, date for the districts to provide data to DOE allows time for the department to compile a report for the legislature in January, 2008.

4:17:59 PM

CHAIR WILSON noted that information in the committee packet indicates that school districts have already taken up the task of dealing with harassment, intimidation, or bullying.

MS. NOVOTNEY responded that 21 states have existing bullying statutes and another 24 states are currently introducing legislation. She explained that this bill revises current Alaska statute (Article 4] Section 14.33.110.

CHAIR WILSON inquired whether the intent of this bill is to establish statute for what the districts have already implemented.

MS. NOVOTNEY clarified that the cited statute, entitled "Purpose of school disciplinary, and safety program," does not mention aspects of harassment, intimidation, or bullying. She explained that HB 482 directs school districts to take measures focused on these issues, pertinent to their locales. To assist the districts, she said, the bill provides for model information and training option resources.

4:20:06 PM

REPRESENTATIVE ANDERSON asked how many school districts exist in Alaska.

MS. NOVOTNEY responded, "Fifty-four; fifty three, or fifty-four."

REPRESENTATIVE ANDERSON said:

Keep in mind I didn't create this. ... an attorney from Anchorage [called] and said, "I've litigated so much of this that I think you need to codify in statute a parameter upon which school districts may utilize your verbiage in adopting their own policies and procedures." ... Is it true that every school district doesn't have a comprehensive, detailed bullying policy, hence the bill.

MS. NOVOTNEY confirmed, stating that approximately 13 school districts have adopted specific harassment and bullying policies.

REPRESENTATIVE ANDERSON forewarned that some school districts may oppose this bill by protesting that action around these issues can and will be dealt with appropriately under current law. However, he opined that the legislative is obligated to provide specific direction and statutory language to eliminate harassment, intimidation, and bullying. He illustrated his point, citing the mandatory Native studies issue as a parallel situation which required statute to assure educational compliance.

[4:22:58 PM](#)

REPRESENTATIVE CISSNA observed that the most damaging harassment would be of a sexual orientation, and asked whether that aspect is covered in the CS.

MS. NOVOTNEY confirmed that sexual harassment is herein addressed.

REPRESENTATIVE CISSNA asked permission to have her aide speak on the sexual harassment issue, from her experience as a retired school counselor.

[4:24:22 PM](#)

REPRESENTATIVE GARDNER inquired why the "shall" was rewritten as "may" in the CS.

MS. NOVOTNEY stated that this language was altered in a previous committee for legal reasons.

CHAIR WILSON interjected that the term "shall" would require that the bill be attached with a fiscal note.

REPRESENTATIVE ANDERSON offered his understanding that a lawsuit could be brought if there is not a formal policy in place. He also opined that "shall" provides a flexibility to the school districts, which will be important when the bill comes before the House.

[4:25:57 PM](#)

REPRESENTATIVE GARDNER stated that "shall" enforces the intention of the bill, whereas "may" does not. Without this language she asked, "Why bother with the bill, they already can do it?"

[4:26:14 PM](#)

REPRESENTATIVE GATTO recalled from previous committee work on this bill, that "shall" was not, nor is it now, terminology which he is able to support. He related details of a recent successful lawsuit, lodged against the Anchorage School District, which was based on a student's off campus actions. He opined that this lawsuit came about because there was not a comprehensive policy in place. Echoing Representative Gardner's concern, he stated, "This bill has no value." Further, he inquired, "What do we gain here, ... by saying ... let's allow them to do something they're allowed to do."

CHAIR WILSON opened public testimony.

[4:29:23 PM](#)

KATIE SINGLETON, Bye-Bye Bullies, stated support for HB 482, and paraphrased from the following statement [original punctuation provided]:

There are a few reasons I think this bill is important and should be passed.

1st - Bullying is bad for everyone involved. Many bullies become convicted criminals as adults. Victims drop out of school or become rageful against other students.

Even By-standers are negatively affected - they can become apathetic toward the violence.

There are experts all over N. America and Europe that have proven that children who are taught how to deal with bullying can change the culture of a school so

that bullying and harassment are not tolerated. And also these skills taught to children in school can serve them well as adults. We all knew bullies as children, and we probably all know bullies now. It can be life changing for a young person to have the skills to deal with bullies.

Another good reason for this legislation is that schools should be held responsible for the safety of their students. Most schools have anti-bullying policies. A lot of these can be useless at best, but can even be harmful if victims are punished under zero tolerance policies. Victims of bullying can turn on their school - using vandalism and lethal violence - like that at Columbine and even in Bethel a few years ago. Research based anti-bullying programs, not just vague policies are needed to actually reduce bullying in a school.

I don't necessarily believe our schools need to be legislated at every turn - but we know that research-based anti-bullying programs can reduce school violence and dropout rates - this can save money in the long run. It can create a culture that is intolerant of bullying in all of Alaska's schools. Teachers can teach. Students can learn. Money won't be wasted on lawsuits, vandalism, discipline and enforcement of bad policy.

Students, Teachers, Parents & Schools will benefit from this legislation."

[4:31:56 PM](#)

REPRESENTATIVE GATTO referred to Ms. Singleton's mention of the Bethel and Columbine murders and asked how an anti-bullying bill could have prevented these incidents.

MS. SINGLETON pointed out that the perpetrators at Bethel and Columbine were victims of bullying. She opined that if these rage filled students had received appropriate support or had learned other ways to vent their anger the outcome may have been very different, and she related her own experience of being bullied as a child.

[4:33:25 PM](#)

REPRESENTATIVE GATTO asked for substantiation of her statement:
"We know that we can reduce violence in the long run."

MS. SINGLETON responded that the research based programs currently in use have statistically shown a reduced violence in schools. She named two programs that are currently instituted in schools, as proven models.

[4:34:50 PM](#)

REPRESENTATIVE GARDNER stated and moved Amendment 1, to read as follows:

Page 3, line 14,
Following "creed,"
Insert "sexual orientation,"

[4:36:03 PM](#)

REPRESENTATIVE ANDERSON objected to the amendment for the purpose of discussion.

[4:37:02 PM](#)

CINDY FOLSOM, Staff to Representative Sharon Cissna, Alaska State Legislature, Retired School Counselor, stated support of HB 482, Amendment 1, and said that in her seventeen year career, she experienced an 80-90 percent rate of bullying complaints to have sexual connotations. This is an important aspect to be considered, she said. Responding to a question, she explained that casual comments may strike students very differently depending on the individual's situation, cautioning how harmless a negative remark may seem on the surface.

[4:38:59 PM](#)

REPRESENTATIVE GATTO provided his observation of the casual use of negative terminology by today's teenagers. He asked whether a teenager's casual comments should be taken literally.

CHAIR WILSON recalling her experience as a school nurse, stated that on some level comments may need to be taken seriously.

REPRESENTATIVE GARDNER echoed that for some students a comment may be meaningless and taken casually in the manner it was intended. However, for a student who is struggling emotionally/socially, the same comment could have a harsh,

deleterious effect. She pointed out that a challenged student who does not have adequate coping abilities may respond negatively to stereotypical terminology when it does not apply directly to them but possibly to a family member.

REPRESENTATIVE ANDERSON removed his objection to the amendment. Further, he pointed out that the bill language provides latitude for school administrators to report aggressive comments or acts of disparagement, in a discretionary manner.

[4:41:23 PM](#)

REPRESENTATIVE GATTO inquired whether the 80-90 percent estimate, provided by Ms. Folsom, represented substantiated harassment incidents or if it also included reports of casual comments.

[4:41:40 PM](#)

CHAIR WILSON stated:

I believe that ... administrators ... are not going to zero in on ... flippant words. ... They will ... zero in ... when things ... [need] attention Administrators in schools ... have a good idea of what's real and what's not.

[4:42:19 PM](#)

REPRESENTATIVE GATTO suggested that if the numbers quoted by Ms. Folsom are credible then a horrendous situation must exist. He questioned the validity of the numbers, and he opined that this bill could not possibly address a situation of the magnitude implied.

REPRESENTATIVE ANDERSON offered that Ms. Folsom's testimony indicated that 80-90 percent of harassment claims were egregious enough for students to seek counseling. Additionally, he said that this bill has merit to continue deliberation.

[4:43:08 PM](#)

CHAIR WILSON announced that hearing no further objection, Amendment 1 was adopted.

[4:43:25 PM](#)

REPRESENTATIVE GARDNER stated and moved Amendment 2, to read as follows:

Page 1, line 6,
Delete "may"
Insert "shall"

REPRESENTATIVE GARDNER stated:

I do understand the concern about liability issues, nevertheless, without "shall" there is not much point in this ... bill. If we believe school districts should have an anti bullying policy then let's work on this bill and pass it out.

REPRESENTATIVE ANDERSON stated and moved Amendment 1, to Amendment 2, to read as follows:

Page 2, line 5,
Delete "may"
Insert "shall"

Hearing no objection Amendment 1, to Amendment 2, was adopted.

REPRESENTATIVE GATTO objected to Amendment 2, and pointed out that this amendment would require the bill to have a finance referral, thus sending the bill to another committee.

CHAIR WILSON confirmed that the bill would be reported to the finance committee.

REPRESENTATIVE SEATON pointed out that with the deadline for hearing bills in the House approaching, adopting Amendment 2 would essentially be "killing the bill," and he stated objection to the amendment.

REPRESENTATIVE GATTO pointed out that by removing Amendment 2, the amendment to the amendment would also be removed.

REPRESENTATIVE GARDNER asked for further affirmation that this bill would not be able to pass the House this year if a fiscal note were attached.

REPRESENTATIVE GARDNER withdrew Amendment 2.

[4:46:57 PM](#)

REPRESENTATIVE ANDERSON asked MS. Novotney how the bill could be altered to avoid a fiscal note attachment.

MS. NOVOTNEY pointed out that striking page 2, subsection (c), would eliminate that concern. Further, she stated that maintaining the page 2, line 5, "may" would also avoid a fiscal note.

[4:48:04 PM](#)

REPRESENTATIVE GARDNER stated:

Understanding that each school district **shall** adopt a policy, but not requiring the department ..., to provide a model policy, allows an amendment ...

CHAIR WILSON offered that the School Board Association (SBA) has several model policies that are available to schools.

[4:48:33 PM](#)

MS. NOVOTNEY reported that the Fairbanks North Star Borough School District is implementing the Safe Schools/Healthy Students initiative.

REPRESENTATIVE GARDNER stated and moved Amendment 3, to read as follows:

Page 1, line 6,
Delete "may"
Insert "shall"

There being no objection, Amendment 3 was adopted.

[4:49:23 PM](#)

REPRESENTATIVE SEATON directed the sponsor's attention to page 2, line 11, and read the sentence beginning: "The department shall post" He asked whether that language would invoke a fiscal note.

REPRESENTATIVE ANDERSON recommended that the sentence be struck. Responding to a question, he clarified that an amendment to strike the language [page 2, lines 11-13] through the word "provide" would be acceptable and would not invoke a fiscal note.

[4:51:44 PM](#)

REPRESENTATIVE SEATON stated and moved Amendment 4, to read as follows:

Page 2,

Line 11,

Delete **"also post"**

Line 12,

Delete **"a brief summary of the policies, programs, partnership, vendors, and instructional and"**

Line 13,

Delete **"training materials for each school district and"**

There being no objection, Amendment 4 was adopted.

[4:52:23 PM](#)

REPRESENTATIVE ANDERSON moved to report CSHB 482, Version 24-LS0053\L, Luckhaupt, 4/10/06, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

[4:52:40 PM](#)

REPRESENTATIVE SEATON objected, and pointed out that the Council on Domestic Violence & Sexual Assault should be involved in the development of this bill. He reminded the committee that the Council's purview is to coordinate and to develop programs. He opined that this aspect will be brought forward in the judiciary committee.

REPRESENTATIVE SEATON removed his objection.

[4:53:27 PM](#)

REPRESENTATIVE GATTO objected, and opined that this type of legislation continues to remove responsibility for children's behavior from parents and places more responsibility on school officials. He pointed out that although many schools have already adopted a policy to address this issue, the bill mandates that every school must implement a policy. He reiterated that this bill provides fodder for attorneys, and further expounded his original reservations.

[4:54:36 PM](#)

REPRESENTATIVE GARDNER stated an understanding of Representative Gatto's concerns, but stated, "This bill isn't about the bullies, it's about the victims, and that is where we all have a responsibility."

[4:54:56 PM](#)

REPRESENTATIVE GATTO withdrew his objection.

[4:55:17 PM](#)

CHAIR WILSON announced that there being no further objection, CSHB 482(HES) was reported out of the House Health, Education and Social Services Standing Committee.

[4:55:44 PM](#)

HB 467-ADMINISTRATION OF MEDICATION BY A NURSE

CHAIR WILSON announced that the final order of business would be further committee attention to HOUSE BILL NO. 467, "An Act relating to the administration of prescribed remedies and dietary supplements by a nurse." [Before the committee was HB 467, Version 24-LS1265\G.]

[Treated as adopted and before the committee was CSHB 467, Version 24-LS1265\F, Mischel, 4/7/06.]

[4:56:22 PM](#)

REPRESENTATIVE MICHAEL "MIKE" KELLY, Alaska State Legislature, testified as sponsor of HB 467, and stated that support for this bill has been provided from doctors, nurses, assisted living facility administrators, and Pioneers' home administrators. He opined that there is general consensus for the need to provide this service to facility residents. He reiterated the intent for safeguards provided in the bill, and reminded the committee that other states have adopted similar statute, thus models exist which the Board of Nursing may choose to implement. Given the examples of professional support and the patients awaiting assistance, he urged the passage of the bill.

[4:59:42 PM](#)

REPRESENTATIVE SEATON inquired whether the language change in Version F creates a mandate that nurses "shall", versus the permissive language of Version G which read "may".

CHAIR WILSON pointed out that the page 1, line 6, "shall" is a direction to the board regarding the establishment of standards.

REPRESENTATIVE SEATON clarified that the board would have the latitude to adopt appropriately permissive language.

REPRESENTATIVE ANDERSON offered to make a motion to move the bill.

5:01:13 PM

REPRESENTATIVE GATTO recalled that a previous version of the bill, provided language which allowed a nurse to decline administration of a substance.

REPRESENTATIVE KELLY clarified that Version F maintains that a nurse is allowed to decline to administer a substance. This legislation authorizes but does not order a nurse to administer substances, therefore, the nurse will still be protected. He reminded the committee that the bill addresses prescribed substances only.

5:02:01 PM

REPRESENTATIVE GATTO stated his understanding that prescription medicine is regulated by accurate dosage, but over-the-counter remedies are unregulated and the dose may vary. He indicated concern for a nurse administering non-USP certified substances when the nurse is held liable [the substances he/she administers]. While this legislation doesn't require a nurse to administer supplements, he inquired whether there was language in Version F to allow a nurse to "opt out" of administering non-prescriptive substances.

REPRESENTATIVE KELLY pointed out that Version G included the following language: "A registered nurse **may** administer a prescribed remedy." Responding to a question, he opined that the term "may" implies that the nurse can refuse to administer a prescribed remedy.

5:05:40 PM

REPRESENTATIVE KELLY explained that the current CS [Version F] goes further than the previous version, by authorizing the Board of Nursing to establish appropriate standards for administration. Further, he said if those standards follow what

has occurred in other states, there will be a list of requirements that must occur. Those requirements include the following: the facility desires to establish a procedure for administration of supplements; a physician prescribes and specifies a dosage for a supplement; control procedures for the dating, lot identification, and sealing of supplements are implemented; and the patient or representative signs a request/release form to authorize the administration. Version F stipulates that the Board of Nursing will establish such procedures and provides a nurse the authority for administration [of prescribed remedies and dietary supplements].

[5:07:19 PM](#)

REPRESENTATIVE SEATON stated:

I'm concerned ... about the same point. ... If I could ask [Madam Chair] as a nurse. ... The Board of Nursing shall establish these standards. That means it's going to bring [administration of supplements] within the scope of practice for a nurse. If it's within the scope of practice for a nurse, and there's a prescription, does the nurse have the ability to say she doesn't want to administer [the substance]

CHAIR WILSON replied, "Always."

[5:08:12 PM](#)

REPRESENTATIVE GATTO asked whether the sponsor would approve the addition of the following language: "Nothing in this statute shall require a nurse to administer nonprescription medication."

CHAIR WILSON said that the proposed legislation specifies that the substance to be administered must be prescribed.

[5:08:29 PM](#)

REPRESENTATIVE KELLY interjected that the substance must be prescribed and the board imposed requirements met. He highlighted that several barriers of scrutiny will be required before a substance may be administered, and pointed out that the nurse is provided the right to refuse to participate.

[5:09:01 PM](#)

REPRESENTATIVE GATTO related his understanding that the term "prescription" is defined as something a pharmacist must distribute. However, a physician can prescribe Vitamin A, which he characterized as different than a prescription with clear dosage specifications.

CHAIR WILSON pointed out that on page 1, line 5, the legislation refers to "**Administration of prescribed remedies and dietary supplements**", and reiterated that it won't even be considered if it isn't prescribed. She then drew Representative Gatto's attention to page 2, lines 2-4, which define "prescribed remedy".

[5:10:17 PM](#)

REPRESENTATIVE GARDNER opined that Representative Gatto's concern is at the heart of the concern of the Board of Nursing in that the legislation addresses remedies and supplements that have no established safeguards since they aren't approved by the Federal Drug Administration (FDA).

CHAIR WILSON said the aforementioned is why the Board of Nursing is going to review it and grapple with this issue after the legislation passes.

[5:11:23 PM](#)

REPRESENTATIVE GARDNER said she didn't understand that to be what the legislation is doing. She asked if Chair Wilson was saying the Board of Nursing will review each [substance] and approve and disapprove [substances]. She further asked if that is the sponsor's intent.

[5:11:43 PM](#)

REPRESENTATIVE KELLY said that the Board of Nursing will need to exercise its judgment in screening these substances. Furthermore, the legislation has so many steps that it creates a safer environment, he opined.

[5:12:41 PM](#)

REPRESENTATIVE GARDNER commented that the intent makes sense. However, she related her understanding that the Board of Nursing has already exercised its judgment and has drawn the line at FDA-approved [substances] because those have been tested with regard to dosage, quantity, and purity of the substance. The

aforementioned testing has not occurred or has not been independently verified by an external body with these substances that aren't FDA-approved.

REPRESENTATIVE KELLY said that's the case now. However, many believe that is too restrictive. Therefore, [Version F] asks the Board of Nursing, with its professional ability, to establish standards to permit these substances [not approved by the FDA] to be administered.

[5:14:26 PM](#)

REPRESENTATIVE SEATON opined that Representative Gardener's concern is satisfied because the Board of Nursing will make the decisions for what and how standards are upheld, as well as establish standards for supplement authorization and the scope of service.

REPRESENTATIVE ANDERSON moved to report CSHB 467, Version 24-LS1265\F, Mischel 4/7/06, out of committee with individual recommendations and the accompanying fiscal notes.

An objection was stated.

A roll call vote was taken. Representatives Seaton, Anderson, Cissna, and Wilson voted in favor of CSHB 467, Version F. Representatives Gatto and Gardner voted against it. Therefore, CSHB 467(HES) was reported out of the House Health, Education and Social Services Standing Committee by a vote of 4-2.

[5:16:06 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Health, Education and Social Services Standing Committee meeting was adjourned at 5:16 p.m.