

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

April 7, 2005

8:10 a.m.

MEMBERS PRESENT

Senator Ralph Seekins, Chair
Senator Charlie Huggins, Vice Chair
Senator Gene Therriault
Senator Hollis French
Senator Gretchen Guess

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 140

"An Act relating to spyware and unsolicited Internet advertising."

SCHEDULED BUT NOT HEARD

SENATE BILL NO. 132

"An Act relating to complaints filed with, investigations, hearings, and orders of, and the interest rate on awards of the State Commission for Human Rights; making conforming amendments; and providing for an effective date."

SCHEDULED BUT NOT HEARD

SENATE BILL NO. 130

"An Act relating to a special deposit for workers' compensation and employers' liability insurers; relating to assigned risk pools; relating to workers' compensation insurers; stating the intent of the legislature, and setting out limitations, concerning the interpretation, construction, and implementation of workers' compensation laws; relating to the Alaska Workers' Compensation Board; assigning certain Alaska Workers' Compensation Board functions to the division of workers' compensation in the Department of Labor and Workforce Development and to that department, and authorizing the board to delegate administrative and enforcement duties to the division; establishing a Workers' Compensation Appeals Commission; providing for workers' compensation hearing officers in workers'

compensation proceedings; relating to workers' compensation medical benefits and to charges for and payment of fees for the medical benefits; relating to agreements that discharge workers' compensation liability; relating to workers' compensation awards; relating to reemployment benefits and job dislocation benefits; relating to coordination of workers' compensation and certain disability benefits; relating to division of workers' compensation records; relating to release of treatment records; relating to an employer's failure to insure and keep insured or provide security; providing for appeals from compensation orders; relating to workers' compensation proceedings; providing for supreme court jurisdiction of appeals from the Workers' Compensation Appeals Commission; providing for a maximum amount for the cost-of-living adjustment for workers' compensation benefits; relating to attorney fees; providing for the department to enter into contracts with nonprofit organizations to provide information services and legal representation to injured employees; providing for administrative penalties for employers uninsured or without adequate security for workers' compensation; relating to fraudulent acts or false or misleading statements in workers' compensation and penalties for the acts or statements; providing for members of a limited liability company to be included as an employee for purposes of workers' compensation; establishing a workers' compensation benefits guaranty fund; relating to the second injury fund; making conforming amendments; providing for a study and report by the medical services review committee; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 128

"An Act relating to consideration by the Local Boundary Commission of a requested borough incorporation."

SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 130

SHORT TITLE: WORKERS' COMPENSATION

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

03/03/05	(S)	READ THE FIRST TIME - REFERRALS
03/03/05	(S)	L&C, FIN
03/08/05	(S)	L&C AT 1:30 PM BELTZ 211
03/08/05	(S)	Heard & Held

03/08/05 (S) MINUTE (L&C)
 03/10/05 (S) L&C AT 1:30 PM BELTZ 211
 03/10/05 (S) Heard & Held
 03/10/05 (S) MINUTE (L&C)
 03/15/05 (S) L&C AT 1:30 PM BELTZ 211
 03/15/05 (S) Heard & Held
 03/15/05 (S) MINUTE (L&C)
 03/17/05 (S) L&C AT 1:30 PM BELTZ 211
 03/17/05 (S) Heard & Held
 03/17/05 (S) MINUTE (L&C)
 03/22/05 (S) L&C AT 1:30 PM BELTZ 211
 03/22/05 (S) Heard & Held
 03/22/05 (S) MINUTE (L&C)
 03/24/05 (S) L&C AT 2:00 PM BELTZ 211
 03/24/05 (S) Heard & Held
 03/24/05 (S) MINUTE (L&C)
 03/29/05 (S) L&C AT 1:30 PM BELTZ 211
 03/29/05 (S) -- Meeting Canceled --
 03/31/05 (S) L&C AT 1:30 PM BELTZ 211
 03/31/05 (S) Moved CSSB 130(L&C) Out of Committee
 03/31/05 (S) MINUTE (L&C)
 04/01/05 (S) L&C RPT CS 2DP 1NR 2AM NEW TITLE
 04/01/05 (S) DP: BUNDE, STEVENS B
 04/01/05 (S) NR: SEEKINS
 04/01/05 (S) AM: DAVIS, ELLIS
 04/01/05 (S) JUD REFERRAL ADDED AFTER L&C
 04/05/05 (S) JUD AT 8:30 AM BUTROVICH 205
 04/05/05 (S) Heard & Held
 04/05/05 (S) MINUTE (JUD)
 04/06/05 (S) JUD AT 8:30 AM BUTROVICH 205
 04/06/05 (S) Heard & Held
 04/06/05 (S) MINUTE (JUD)

WITNESS REGISTER

Mr. Paul Lisanki, Director
 Division of Worker's Compensation
 Department of Labor & Workforce Development
 PO Box 21149
 Juneau, AK 99802-1149

POSITION STATEMENT: Commented on SB 130

Ms. Linda Hall, Director
 Division of Insurance
 550 W. 7th Ave Suite 1560
 Anchorage, AK 99501

POSITION STATEMENT: Commented on SB 130

Ms. Marjorie Linder, Vocational Rehabilitation Counselor
Division of Worker's Compensation
Department of Labor & Workforce Development
PO Box 21149
Juneau, AK 99802-1149

POSITION STATEMENT: Commented on SB 130

Mr. Jim Jordan, Executive Director
Alaska State Medical Association
4107 Laurel St.
Anchorage, AK

POSITION STATEMENT: Commented on SB 130

Mr. Steve Constantino, Hearing Officer
Alaska Worker's Compensation Board
Division of Worker's Compensation
Department of Labor & Workforce Development
PO Box 21149
Juneau, AK 99802-1149

POSITION STATEMENT: Commented on SB 130

Mr. Michael Jensen, Attorney
12350 Industrial Way
Anchorage, AK

POSITION STATEMENT: Commented on SB 130

Mr. William Fehrenbach, Director State Government Affairs
Medtronics
Minneapolis, MN

POSITION STATEMENT: Commented on SB 130

ACTION NARRATIVE

CHAIR RALPH SEEKINS called the Senate Judiciary Standing Committee meeting to order at [8:10:44 AM](#). Present were Senators Hollis French, Gretchen Guess, and Chair Ralph Seekins.

CHAIR SEEKINS informed the committee and the gallery of his intended process in reviewing SB 130.

SB 130-WORKERS' COMPENSATION

[8:13:35 AM](#)

CHAIR SEEKINS asked Ms. Linda Hall to continue testimony from the previous day. He asked whether she had any ideas that the Legislature should be considering.

[8:14:55 AM](#)

MS. LINDA HALL admitted she has ideas although she does not have experience in worker's compensation.

[8:17:11 AM](#)

MR. PAUL LISANKI, director, Division of Worker's Compensation, Department of Labor and Workforce Development (DOLWD), commented on a letter sent to Senator Seekins office from the DOLWD containing information regarding worker's compensation in other states. The overview is taken from a Department of Labor (DOL) publication. Some states have placed limitations on the benefits. Appendix A is a list of recommendations from the National Commission on State Workmen's Compensation Laws. Table 4 lists two specific recommendations relating to medical benefits.

[8:19:17 AM](#)

The information given to the committee by the DOLWD addresses the question of whether it is possible to put limitations on medical benefits. Whether medical benefits should be limited due to the passage of time would be contrary to the recommendations of the National Commission. It is not done in other states. There are a number of states that have considered medical benefits and they have some controls over unlimited payment of benefits. For example, Florida has a provision for a co-payment that would start after the injury reached maximum medical improvement.

[8:21:45 AM](#)

CHAIR SEEKINS noted Appendix A gives the essential recommendations. He asked Mr. Lisanki how Alaska compares.

MR. LISANKI answered Table 1 explains how Alaska compares. According to the DOL Alaska is meeting 14 of the 19 recommendations.

[8:25:39 AM](#)

The maximum amount that may be paid for temporary total disability for a week off varies from state to state.

[8:27:23 AM](#)

MS. HALL stated there are a significant number of states that have a state fund of some form. Washington is a monopolistic state and has no private insurers. Employers purchase worker's compensation coverage through a state mechanism.

[8:32:58 AM](#)

MS. MARJORIE LINDER, vocational rehabilitation counselor, Division of Worker's Compensation, introduced herself. She said contrary to the hype, SB 130 reduces benefits. Section 15 offers no benefit at all. An injured worker may find that s/he is disqualified from retraining. Without legal representation, the injured worker may not know what s/he is signing. \$5,000 is a relatively small sum of money when required to sign away for life any future ability to have retraining. SB 130 would allow this to be done with no oversight by the Board, no legal council, no information conveyed.

[8:35:51 AM](#)

Senator Charlie Huggins joined the committee.

MS. LINDER continued it is bad public policy to give workers a hand out in lieu of a hand up. She suggested removing the language concerning stipulation. People often do not have adequate information in order to make an informed decision.

[8:37:59 AM](#)

SENATOR HOLLIS FRENCH asked Ms. Linder whether her position would change if the person making the decision were represented by an attorney.

MS. LINDER agreed that would be a tremendous help. She said no attorney in their right mind would advise their client to take the job dislocation benefit because it is so exploitive and the risks are tremendous.

[8:38:59 AM](#)

CHAIR SEEKINS asked Ms. Linder whether she had any further propositions.

MS. LINDER added she wanted Section 15 taken out as a disqualifier for the reemployment benefit.

[8:41:15 AM](#)

SENATOR GUESS asked Mr. Lisanki the requirements of communication to the injured worker.

MR. LISANKI answered currently under statute the reemployment benefits are optional at the choice of the injured worker. SB 130 would not change that. The DOL has concerns under the current statutes that the injured worker does not stay informed. They can call the DOL, and can be apprised of their rights by their employer, and there is also pamphlet information. Since

1988 the Legislature has said in order to receive the benefits an injured worker must request them within 90 days of reporting the injury unless there are extenuating circumstances.

[8:43:52 AM](#)

The Worker's Compensation Board has basically amended the law. There are regulations that define things that happen routinely as unusual and extenuating. It is troubling when people lose a benefit they don't know about. SB 130 would redefine the trigger for getting the benefit.

[8:45:07 AM](#)

Certain triggers happen and either the employee or the employer or the insurer asks for an evaluation of eligibility for the benefit. If the administrator finds the triggers are met, they assign the job of assessing eligibility to Ms. Linder or someone like her. Based on the analysis this person is or is not eligible and they can appeal.

[8:47:43 AM](#)

SENATOR FRENCH said he intended to propose an amendment that the injured worker must sign up for a rehabilitation specialist. Section 16 now requires a person to either chose reemployment or job dislocation with no option of going back.

[8:49:19 AM](#)

MR. LISANKI commented that is currently how the system works.

SENATOR FRENCH understood the job dislocation aspect is not currently in statute.

MR. LISANKI affirmed.

CHAIR SEEKINS announced a brief recess at [8:50:10 AM](#).

CHAIR SEEKINS reconvened the meeting at [8:52:01 AM](#).

MR. LISANKI said currently an employee has 15 days after receiving notification of eligibility. An employee who desires to use those benefits shall give written notice within that period. Failure to give notice constitutes non-cooperation with the benefit.

CHAIR SEEKINS commented the basic difference is the cash option.

[8:53:59 AM](#)

SENATOR FRENCH asked the purpose of the reemployment benefit.

MR. LISANKI explained it is to give the injured worker a different opportunity to go back to work.

[8:55:22 AM](#)

CHAIR SEEKINS asked Mr. Lisanki to comment on the suggested amendments before the committee.

MR. LISANKI reiterated his previous testimony that the system can work with allowing injured workers and employers to stipulate to eligibility. Section 15 regarding waiving the reemployment benefits and accepting the dislocation benefits should not be a disqualifier for future benefits.

[8:57:25 AM](#)

MR. LISANKI referred to AS 041 (F) (2) and said a person would not qualify for reemployment benefits if, after injured the first time, they return to work in the same or similar occupation in terms of physical demands required and then get were to get re-injured.

[9:00:35 AM](#)

SENATOR GUESS said in some ways the reemployment decision is similar to state employees cashing out their PERS. However, the state has a buyback provision. She asked whether anything like that has been considered with the worker's compensation benefits.

MR. LISANKI replied no. It would be difficult to administer. The experts who testified in support of reemployment benefits were of the mind that they have to happen quickly to be effective.

[9:04:16 AM](#)

SENATOR GUESS asked who the experts were.

MR. LISANKI said Z. Jackson did the original study, which was completed and then invoked in 1982.

[9:07:16 AM](#)

MR. JIM JORDAN, executive director, Alaska State Medical Association (ASMA), testified additional data is needed before the Association can offer any meaningful suggestions. ASMA's main concern is to provide appropriate access to care for injured workers. The American Medical Association (AMA) recently released a study that had to do with Medicare saying, if the Medicare payment schedule is not fixed by the end of 2005, there will be a 5 percent cut in the Medicare payment rate schedule.

The result is that 38 percent of physicians will decrease new Medicare patients they accept. They will also cease purchase of new equipment.

[9:09:58 AM](#)

This would make it difficult to comply with the requirements of Medicare. He asked the committee to consider Section 24, which is the preferred drug list. It only relates to a prescribing physician. There are others who have the ability to prescribe to injured workers such as Physicians Assistants, Nurse Practitioners, and Dentists.

[9:11:51 AM](#)

MR. JORDAN continued it is necessary to look overall at how the injured workers are coming out of the system and to consider whether they are better off.

[9:12:33 AM](#)

CHAIR SEEKINS explained he would introduce an amendment that defines attending physician.

SENATOR FRENCH asked Mr. Jordan to expand on ACOEM practice guidelines.

MR. JORDAN said the California Medical Association reported the ACOEM guidelines are not inclusive. They recommended additional guidelines that were prepared by various national specialty societies.

[9:15:35 AM](#)

SENATOR FRENCH expressed concern that the ACOEM guidelines don't cover a majority of the care deemed necessary to provide. The default would be to Section 24, subsection (p), which seems like a cost driver.

[9:16:39 AM](#)

Senator Gene Therriault joined the committee.

[9:18:00 AM](#)

MR. STEVE CONSTANTINO, hearing officer, Alaska Worker's Compensation Board, testified he meets regularly with colleagues to discuss SB 130. They have prepared a number of amendments and a compromised bill, which they intend to send to the Senate Judiciary Standing Committee.

[9:20:41 AM](#)

MR. CONSTANTINO said a great deal of information is needed to make reasonable policy changes. He agreed with the proposed Worker's Compensation Task Force. The freeze on medical benefits should be balanced by a freeze on insurance premiums.

[9:22:53 AM](#)

Injured workers are often without benefits and medical care because of a dispute with the employer. When a settlement is proposed, all parties are aware a waiver of medical benefits is not in the best interest of the injured worker. To allow a waiver of medical benefits to avoid the Board's scrutiny would give a green light to insurers to insist on the provision as part of any resolution of the claim. Parties do not have equal bargaining positions. The injured worker's bills and family responsibilities continue. When presented with the possibility of another year of litigation, the injured worker will be enticed to waive medical benefits.

[9:26:00 AM](#)

There are significant problems with Section 30, which would cap non-resident compensation rates to those paid to Alaskan residents. Section 38 would relieve the person who instigated the fraud allegation from liability except for reckless allegations, which is concerning. An allegation of fraud could deter injured workers from legitimate claims.

[9:28:47 AM](#)

Section 33 would eliminate the second injury fund, which would shift the burden from insurers to businesses. The fund was designed to encourage businesses to hire injured workers by allowing those businesses to be reimbursed for disability expenses. The fund encourages employers to hire those they would otherwise shy away from. Section 33 alludes all other legal protections are adequate.

[9:31:05 AM](#)

Section 14 refers to a mandatory 90-day referral. A substantial number of injured workers do not recover until well after the 90-day period. There needs to be a safety valve for employees who can't go back to work within 90 days. The employee must have the right to come back before the Board and demonstrate there were changes that could not be previously determined by the attending physician.

[9:33:52 AM](#)

MR. CONSTANTINO echoed Ms. Linder's concern regarding the job dislocation benefit. It does not relate to how seriously an

employee is functionally disabled. It is a cost shifting mechanism, which would allow insurers to waive an important benefit in order to save costs.

[9:36:09 AM](#)

The Alaska Worker's Compensation Board does not support Page 5 of Mr. LISANKI's suggestions titled, "Maintaining Medical Benefits While Reducing Costs."

[9:38:00 AM](#)

The preferred provider provisions incorporated into the statutes cause concern. It would allow insurance companies to negotiate with a select group of doctors to provide care at certain costs. He asserted insurance company doctors are wrong most of the time.

[9:40:08 AM](#)

MR. CONSTANTINO concluded there would be great pressure on injured workers to use the preferred provider. Employees have a right to change doctors one time. As the law is currently proposed, that one time change will be exhausted if the injured worker chooses the preferred provider.

[9:44:27 AM](#)

CHAIR SEEKINS announced the intent of the Senate Standing Judiciary Committee to be done with SB 130 by the following afternoon.

Chair Seekins announced a brief recess at [9:45:50 AM](#).

Chair Seekins reconvened the meeting at [10:10:16 AM](#).

CHAIR SEEKINS introduced Amendment 1, which would add the creation of a task force on worker's compensation.

AMENDMENT 1

*Sec 54. The uncodified law of the State of Alaska is amended by adding a new section to read:

TASK FORCE ON WORKERS' COMPENSATION. (a) There is established in the legislative branch the Task Force on Workers' Compensation to address the improvement of the Alaska worker's compensation system, including

- (1) a review of workers' compensation and insurance reform measures throughout the United States and an assessment of the effects of those reforms;

- (2) an analysis and assessment of proposals for workers' compensation liability insurance reform in Alaska;
- (3) a review of current Alaskan workers' compensation benefits and costs and an assessment of needed changes;
- (4) a review of compliance with current Alaska workers' compensation laws;
- (5) a consideration of other issues determined to be relevant by members of the task force.

(b) The task force established under (a) of this section shall consist of nine voting members. One member shall be a state senator appointed by the president of the senate and one member shall be a representative appointed by the speaker of the house of representatives. Eight members shall be appointed jointly by the president of the senate and speaker of the house of representatives, as follows:

- (1)
- (2)
- (3)
- (4)
- (5)
- (6)
- (7)

- (c) The task force established under (a) of this section
- (1) may begin work immediately upon the appointment of its full voting membership and shall meet at least three times telephonically or in person;
 - (2) shall hold public hearings and may perform research related to its work;
 - (3) may meet in the interim and vote telephonically;
 - (4) shall report its written findings and give a copy of proposed legislation and other recommendations to the legislature before December 1, 2005; and
 - (5) is terminated February 1, 2006.

10:13:00 AM

SENATOR THERRIAULT moved Amendment 1. Hearing no objections, the motion carried.

SENATOR GUESS wanted the record to show the intent of the committee is that a person who has been in the system would represent the unorganized labor position, and that the Speaker and the Senate President would determine the Chair of the task force.

CHAIR SEEKINS agreed.

CHAIR SEEKINS introduced Amendment 2, which would provide the definition of "attending physician."

[10:15:22 AM](#)

SENATOR GUESS moved Amendment 2.

AMENDMENT 2

Page 26, following line 23:

Insert the following new material:

"(35)"attending physician" means one of the following designated by the employee under AS 23.30.095(a) or (b):

- (A) a licensed medical doctor;
- (B) a licensed doctor of osteopathy;
- (C) a licensed dentist or dental surgeon;
- (D) a licensed physician's assistant acting under supervision of a licensed medical doctor or doctor of osteopathy;
- (E) a licensed advanced nurse practitioner acting under supervision of a licensed medical doctor or doctor of osteopathy; or,
- (F) for a period of 30 days from the date of first visit following an injury or for 12 visits, whichever first occurs, a licensed chiropractor;"

Page 26, line 24:

Delete "(35)"

Insert "(36)"

Page 26, line 26:

Delete "(36)"

Insert "(37)"

Page 26, line 28:

Delete "(37)"

Insert "(38)"

Page 26, line 30:

Delete "(38)"

Insert "(39)"

CHAIR SEEKINS objected for the purpose of discussion.

[10:17:16 AM](#)

SENATOR FRENCH moved to strike the word "advanced" in reference to Nurse Practitioner. Hearing no objections, the motion carried.

[10:18:31 AM](#)

CHAIR SEEKINS removed his objection. Hearing no further objections, Amendment 2 was unanimously adopted.

[10:19:54 AM](#)

MR. MICHAEL JENSON, attorney representing injured workers, testified there are only seven attorneys who practice exclusively worker's compensation representing workers. The reason there are so few is because it is very complicated; the benefits are too low and it is difficult to get paid. SB 130 does not address the increase in insurance premiums. For the past two years fees for attorneys representing workers has gone down 10 percent and insurance attorney fees have gone up but nobody is asking where the regulators are.

[10:22:14 AM](#)

The first major problem with SB 130 is the cookbook approach practice of the treating doctors. He asked Section 24 be put on hold until the task force can address it.

[10:24:28 AM](#)

MR JENSON suggested amending Section 16 and Section 19 so that a waiver requires Board approval.

[10:29:34 AM](#)

SENATOR FRENCH announced he has three amendments for the members to consider the next hearing.

[10:30:30 AM](#)

MR. WILLIAM FEHRENBACH, director of State Government Affairs for Medtronic, advised they have a technical clarification for SB 130. There are many things that ACOEM does not address and so ACOEM cannot be invoked to deny a procedure that ADOEM does not address.

[10:32:31 AM](#)

SENATOR GUESS moved Amendment 3. Hearing no objections, the motion carried.

AMENDMENT 3

Page 15, Line 31, after "...medical treatment or services."

INSERT:

Treatment may not be denied based on American College of Occupational and Environmental Medicine Practice Guidelines if the treatment for the indication in question is not specifically addressed by the American College of Occupational and Environmental Medicine Practice Guidelines.

[10:34:24 AM](#)

SENATOR THERRIAULT moved Amendment 4.

AMENDMENT 4

Page 4, Delete Section 5
Page 6, Delete Section 11
Page 22, Delete Section 37
Page 27, Delete Section 46
Page 28, Delete Sections 50 and 54

Renumber all other sections accordingly.

SENATOR GUESS objected for the purpose of explanation.

MR. LISANKI explained Amendment 4 refers to the elimination over time of the second injury fund.

SENATOR GUESS removed her objection. Hearing no further objections, Amendment 4 was adopted.

[10:35:54 AM](#)

CHAIR SEEKINS introduced Amendment 5.

SENATOR HUGGINS moved Amendment 5.

AMENDMENT 5

Page 26, following line 23:

Insert a new bill section to read:

***Sec. 42.** AS 23.30.395(17) is amended to read:

(17) "injury" means accidental injury or death arising out of and in the course of employment, and an occupational disease or infection which arises naturally out of the employment of which naturally or unavoidably results from an accidental injury; "injury" includes breakage or damage to eyeglasses, hearing aids, dentures, or any prosthetic devices which function as part of the body and further includes an injury caused by the wilful act of a third person directed against an employee because of the employment; **"injury" does not**

include aggravation, acceleration or combination with a pre-existing condition unless the employment is the major contributing cause of disability or need for medical treatment; "injury" does not include mental injury caused by mental stress unless it is established that (A) the work stress was extraordinary and unusual in comparison to pressures and tensions experienced by individuals in a comparable work environment, and (B) the work stress was the predominant cause of the mental injury; the amount of work stress shall be measured by actual events; a mental injury is not considered to arise out of and in the course of employment if it results from a disciplinary action, work evaluation, job transfer, layoff, demotion, termination, or similar action, taken in good faith by the employer;"

Renumber the following bill sections accordingly.

CHAIR SEEKINS objected for the purpose of explanation.

MR. LISANKI explained Amendment 5 amends the definition of the word "injury" as used in the Worker's Compensation Act.

[10:38:10 AM](#)

SENATOR FRENCH asked the reason for such a significant change.

MR. LISANKI said the impetus is for decreasing the cost of insurance premiums.

[10:42:24 AM](#)

CHAIR SEEKINS tabled Amendment 5 until the next hearing. He introduced Amendment 6.

SENATOR HUGGINS moved Amendment 6.

AMENDMENT 6

Page 15, following line 3:

Insert a new bill section to read:

"*Sec. 23. AS 23.30.095(c) is amended to read:

(c) A claim for medical or surgical treatment, or treatment requiring continuing and multiple treatments of a similar nature is not valid and enforceable against the employer unless, within 14 days following treatment, the physician or healthcare provider giving the treatment of the employee receiving it furnishes to the employer and the board notice of the injury and treatment, preferably on a form prescribed by the board. The board shall, however, excuse the failure to furnish notice within 14 days when it finds it to be in the interest of

justice to do so, and it may, upon application by a party in interest, make an award for the reasonable value of the medical or surgical treatment so obtained by the employee.

(1) When a claim is made for a course of treatment requiring continuing and multiple treatments of a similar nature, in addition to the notice, the physician of health care provider shall furnish a written treatment plan if the course of treatment will require more frequent outpatient visits than the standard treatment frequency for the nature and degree of the injury and the type of treatments. The treatment plan shall be furnished to the employee and employer within 14 days after treatment begins. The treatment plan must include objectives, modalities, frequency of treatments, and reasons for the frequency of treatments. If the treatment plan is not furnished as required under this subsection, neither the employer nor the employee may be required to pay for treatments that exceed the frequency standard. The board shall adopt regulations establishing standards for frequency of treatment.

(2) Notwithstanding subsection (a) of this section, a claim for palliative care or treatment provided after the employee's condition is medically stable is not valid and enforceable against the employer unless the employee's attending physician certifies that the palliative care of treatment is required to enable the employee to continue in the employee's employment at the time of treatment or to enable the employee to continue to participate in an agreed or approved reemployment plan. Palliative care or treatment is also subject to the requirements of subsection (1) of this section if the palliative care or treatment involves continuing and multiple treatments of a similar nature."

Renumber the following bill sections accordingly.

SENATOR FRENCH objected for the purpose of explanation.

MR. LISANKI explained it was based on the scope of medical benefits that can be paid and the expense associated. The amendment specifically addresses palliative care.

[10:46:47 AM](#)

SENATOR FRENCH moved to table Amendment 6 until the next hearing. Hearing no objections, the motion carried.

[10:49:32 AM](#)

SENATOR FRENCH introduced Amendment 7.

24-GS1112\G.1
Craver

A M E N D M E N T 7

OFFERED IN THE SENATE
TO: CSSB 130(L&C)

BY SENATOR FRENCH

Page 11, line 8, following "AS 23.30.130":

Insert ";

(4) the administrator may not accept an election to accept a job dislocation benefit by an employee who is not represented by an attorney"

CHAIR SEEKINS tabled Amendment 7 until the next bill hearing.

SENATOR FRENCH introduced Amendment 8.

24-GS1112\G.2
Craver

A M E N D M E N T 8

OFFERED IN THE SENATE
TO: CSSB 130(L&C)

BY SENATOR FRENCH

Page 12, line 18, following "AS 23.30.130.":

Insert "**The division may not accept a wavier executed by an employee who is not represented by an attorney before the board's review and approval of the employee's waiver."**

CHAIR SEEKINS tabled Amendment 8 until the next bill hearing.

CHAIR SEEKINS introduced Amendment 9.

MR. LISANKI explained Amendment 9 contained a fix for unintended redundant language.

SENATOR THERRIAULT moved Amendment 9.

SENATOR FRENCH moved to table Amendment 9 until the next bill hearing. Hearing no objections, the motion carried.
Chair Seekins recessed the Senate Standing Judiciary Committee meeting until 0800 Friday, April 8, 2005 at [10:53:13 AM](#).