

**ALASKA STATE LEGISLATURE**  
**SENATE JUDICIARY STANDING COMMITTEE**

April 8, 2005

8:07 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."

MOVED CSSB 130(JUD) OUT OF COMMITTEE

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)
04/07/05	(S)	JUD AT 8:30 AM BUTROVICH 205
04/07/05	(S)	Heard & Held
04/07/05	(S)	MINUTE(JUD)
04/08/05	(H)	JUD AT 8:00 AM CAPITOL 120
04/08/05	(S)	FIN AT 9:00 AM SENATE FINANCE 532

**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  
333 Willoughby St  
Juneau, AK 99801

**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

#### **ACTION NARRATIVE**

**CHAIR RALPH SEEKINS** called the Senate Judiciary Standing Committee meeting to order at [8:07:45 AM](#). Present were Senators French, Therriault, Guess, and Chair Seekins.

#### **SB 130-WORKERS' COMPENSATION/ INSURANCE**

[8:09:30 AM](#)

CHAIR RALPH SEEKINS reviewed the work from the previous day and advised the committee members of the intended agenda. Several proposed amendments were passed out.

[8:16:32 AM](#)

CHAIR SEEKINS informed Ms. Linda Hall of a proposal to freeze both medical benefits and insurance premiums. He asked the practical effect that would have.

MS. LINDA HALL, director, Division of Insurance, hesitated to be an alarmist. However, she said if the premiums were frozen there would be a market withdrawal.

[8:19:08 AM](#)

The practical effect would be employers would have no one to obtain for coverage. A secondary effect would be the assigned risk pool would fold. At that point it would mean the state would have to relinquish the mandatory requirement for employers to hold worker's compensation coverage or the state would have to establish a state fund.

[8:20:44 AM](#)

CHAIR SEEKINS asked whether the state would have to subsidize the fund.

MS. HALL replied somebody would.

CHAIR SEEKINS stated, "Assuming we could contain the cost by freezing rates, we may have the same practical effect on the premium."

MS. HALL responded correct. Premiums are reflective of costs.

[8:22:03 AM](#)

CHAIR SEEKINS announced the Alaska State Medical Association brought three amendments for consideration.

Chair Seekins called a brief recess at [8:22:55 AM](#).

Chair Seekins reconvened the meeting at [8:27:08 AM](#).

CHAIR SEEKINS announced the primary goal is to consider the amendments first. For the record the committee passed Amendments 1, 2, 3, & 4. The committee tabled Amendment 5.

[8:28:27 AM](#)

SENATOR HOLLIS FRENCH asked Mr. Lisanki the amount of claims Amendment 5 would affect.

MR. LISANKI, director, Division of Worker's Compensation, Department of Labor and Workforce Development (DOLWD), answered the system has never been set up to make a distinction between injuries. He could not give an answer to the question.

CHAIR SEEKINS asked Mr. Lisanki to comment on Amendment 6.

MR. LISANKI stood by his original comments. Treatment for chronic intractable pain would be considered palliative care.

[8:33:41 AM](#)

SENATOR GENE THERRIAULT asked the difference between intractable and debilitation.

[8:34:31 AM](#)

Mr. JIM JORDAN, executive director, Alaska State Medical Association, understood "intractable" to mean unrelenting and continuous.

CHAIR SEEKINS read the Webster's New World: "Hard to manage, unruly, or stubborn."

[8:35:54 AM](#)

SENATOR FRENCH commented Amendment 7 should make certain that the job dislocation benefit waiver works best when represented by counsel.

CHAIR SEEKINS countered people are allowed to sign contracts that affect their lives without representation.

[8:37:46 AM](#)

Senator Charlie Huggins joined the committee.

CHAIR SEEKINS asserted he did not want to restrict a person to first talk to counsel.

SENATOR THERRIAULT asked Mr. Lisanki whether people currently have counsel to help them make decisions.

MR. LISANKI answered there is currently no requirement that someone consult an attorney before making a benefit decision.

[8:40:55 AM](#)

SENATOR FRENCH aired it was a one-time buyout for a permanent impairment and the need for consulting an attorney was definite.

[8:43:12 AM](#)

MR. LISANKI clarified it was not a buy out of permanent partial impairment. The permanent partial benefit would still be paid.

[8:45:01 AM](#)

SENATOR FRENCH commented Amendment 8 also relates to waiving benefits. He expressed concern the waiver be reviewed by an attorney or the Worker's Compensation Board.

[8:49:18 AM](#)

MR. LISANKI said the waiver was designed to be a lump sum payment. Section 19 reflects a syntax change. It is relatively new and was put in place by the Legislature in 2000.

[8:52:26 AM](#)

SENATOR THERRIAULT asked Mr. Lisanki to comment on Amendment 9.

[8:54:20 AM](#)

MR. LISANKI said Amendment 9 was redrafted because of redundant language. Section 40 was changed to clarify compensatory damages are awarded by a jury in a jury trial. They added the words "or jury".

[8:59:03 AM](#)

MR. LISANKI commented Amendment 10 puts into statute what is already happening. Since 1988 the benefit has been converted to permanent partial impairment benefits. To avoid litigation, the ad hoc committee recommended the language.

[9:00:50 AM](#)

SENATOR THERRIAULT sponsored Amendment 10.

SENATOR HUGGINS moved Amendment 5.

SENATOR FRENCH objected. He said the committee should be advised the number of cases Amendment 5 would affect.

SENATOR THERRIAULT said Alaska couldn't afford to consider a pre-existing injury under the worker's compensation benefits system.

[9:03:39 AM](#)

SENATOR GUESS advised she would vote against Amendment 5 until she learns more about the impact it would have.

Roll call proved the Amendment 5 passed 3-2 with Senators French and Guess dissenting.

[9:05:00 AM](#)

SENATOR HUGGINS moved Amendment 6.

SENATOR GUESS introduced an amendment to Amendment 6.

**AMENDMENT TO AMENDMENT 6**

Page 2, Line 11, after "...treatments of a similar nature."

Insert:

"Limitations described in this subsection do not apply in the event that the physician certifies that the treatment is needed to treat chronic, intractable pain."

SENATOR THERRIAULT suggested changing the word "intractable" to "debilitating."

SENATOR GUESS asked Mr. Lisanki to comment.

MR. LISANKI voiced it is a dilemma to define a term that allowed for serious pain treatment.

[9:08:23 AM](#)

CHAIR SEEKINS said the intent is to allow a physician to find new technologies to treat serious pain.

MR. LISANKI responded the provision is for palliative care of a patient who is beyond recoverable treatment.

CHAIR SEEKINS conceded to change the word "intractable" to "debilitating." Hearing no objection, Amendment 6 was adopted.

[9:10:32 AM](#)

SENATOR FRENCH moved Amendment 7. Hearing no objection, the motion carried.

24-GS1112\G.1  
Craver  
4/7/05

**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 has not signed a form, which conspicuously notes the benefit being waived."

[9:12:05 AM](#)

Senator French moved Amendment 8.

24-GS1112\G.2  
Craver  
4/7/05

**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 unless the waiver has been reviewed and approved by the board."

SENATOR THERRIAULT objected for discussion. He asked Chair Seekins whether this would mean that the Board has to approve each waiver.

CHAIR SEEKINS said it would prescribe who would draft the form.

MR. LISANKI answered the form would be approved by the director, the division would serve the notice, and the division would receive the statement form. The operative phrase is "not withstanding AS 23.30.012." That is the provision that requires the Board to review and approve settlements. One of the two would have to go.

[9:14:48 AM](#)

SENATOR FRENCH clarified the specific employee's waiver would have to be approved.

SENATOR THERRIAULT maintained his objection.

Roll called proved Amendment 8 failed 4-1 with Senators Huggins, Guess, Therriault, and Chair Seekins dissenting.

SENATOR THERRIAULT moved Amendment 9.

CHAIR SEEKINS objected for discussion. He voiced hesitation to put compensatory and punitive damages into worker's compensation law.

[9:16:14 AM](#)

SENATOR THERRIAULT asked the penalties that would be divined.

CHAIR SEEKINS speculated fines and jail terms. Punitive and compensatory damages are an additional award used for pain and suffering.

MR. LISANKI said the Board could order repayment of benefits that were obtained fraudulently.

[9:19:23 AM](#)

SENATOR THERRIAULT proposed a conceptual amendment to Amendment 9, which would strike the word "punitive."

[9:21:29 AM](#)

CHAIR SEEKINS clarified the intent of the conceptual amendment was to direct the drafter to ensure the statutes allow compensatory damages but not punitive damages.

[9:25:26 AM](#)

Hearing no objections, the conceptual amendment to Amendment 9 was adopted. Amendment 9 was adopted.

SENATOR THERRIault moved Amendment 10. Hearing no objections, the motion carried.

**A M E N D M E N T 10**

\*Sec. 17. AS 23.30.041(k) is amended to read:

(k) Benefits related to the reemployment plan may not extend past two years from the date of plan approval or acceptance, whichever date occurs first, at which time the benefits expire. If an employee reaches medical stability before completion of the plan, temporary total disability benefits shall cease and permanent impairment benefits shall then be paid at the employee's temporary total disability rate. If the employee's permanent impairment benefits are exhausted before the completion or termination of the reemployment **process** [PLAN], the employer shall provide compensation equal to 70 percent of the employee's spendable weekly wages, but not to exceed 105 percent of the average weekly wage, until the completion or termination of the **process** [PLAN], except that any compensation paid under this subsection is reduced by wages earned by the employee while participating in the **process** [PLAN] to the extent that the wages earned, when combined with the compensation paid under this subsection, exceed the employee's temporary total disability rate. If permanent partial disability **or permanent partial impairment** benefits have been paid in a lump sum before the employee requested or was found eligible for reemployment benefits, payment of benefits under this subsection is suspended until permanent partial disability **or permanent partial impairment** benefits would have ceased, had those benefits been paid at the employee's temporary total disability rate, notwithstanding the provisions of AS 23.30.155(j). A permanent impairment benefit remaining unpaid upon the completion or termination of the plan shall be paid to the employee in a single lump sum. An employee may not be considered permanently totally disabled so long as the employee is involved in the rehabilitation process under this chapter. The fees of the rehabilitation specialist or rehabilitation professional shall be paid by the employer and may not be included in determining the cost of the reemployment plan.

[9:27:13 AM](#)

SENATOR GUESS moved Amendment 11.

A M E N D M E N T 11

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

BY SENATOR GUESS

Page 10, line 8:  
Delete "15"  
Insert "30 [15]"

Page 11, line 7, following "elected;":  
Insert "except as provided in (4) of this subsection,"

Page 11, line 8, following "AS 23.30.130":  
Insert ";  
(4) an employee who elects to accept a job dislocation benefit under (2) of this subsection may revoke that election if the employee  
(A) notifies the administrator in writing within one year after the receipt of the job dislocation benefit under (2) of this subsection, that the employee chooses reemployment benefits; and  
(B) refunds the entire job dislocation benefit received, without interest"

Page 11, following line 19:  
Insert a new bill section to read:  
"\* **Sec. 18.** AS 23.30.041(n) is amended to read:

(n) After the employee has elected to participate in reemployment benefits, if the employer believes the employee has not cooperated, the employer may terminate reemployment benefits on the date of noncooperation. Noncooperation means

- (1) unreasonable failure to
  - (A) keep appointments;
  - (B) maintain passing grades;
  - (C) attend designated programs;
  - (D) maintain contact with the rehabilitation specialist;
  - (E) cooperate with the rehabilitation specialist in developing a reemployment plan and participating in activities relating to reemployability on a full-time basis;
  - (F) comply with the employee's responsibilities outlined in the reemployment plan; or

(G) participate in any planned reemployment activity as determined by the administrator; or  
(2) failure to give written notice to the employer of the employee's choice of rehabilitation specialists within 30 [15] days after receiving notice of eligibility for benefits from the administrator as required by (g) of this section."

Renumber the following bill sections accordingly.

Page 27, line 11:  
Delete "sec. 30"  
Insert "sec. 31"

Page 27, line 12:  
Delete "sec. 30"  
Insert "sec. 31"

Page 28, line 10:  
Delete "sec. 23"  
Insert "sec. 24"

Page 28, line 14:  
Delete "Section 49"  
Insert "Section 50"

Page 28, line 15:  
Delete "30, and 51"  
Insert "31, and 52"

Page 28, line 16:  
Delete "37, 46, and 50"  
Insert "38, 47, and 51"

Page 28, line 21:  
Delete "52 - 54"  
Insert "53 - 55"

SENATOR THERRIAULT objected.

SENATOR GUESS said Amendment 11 would balance the new dislocation benefit. It would allow people a little more time to respond. It would also allow an injured worker one year to change their mind and provide for the payback of the \$5,000 in exchange for retraining.

[9:28:50 AM](#)

MR. LISANKI commented up until 2000 the employee was allowed 10 days to respond and then it was expanded to 15 days. SB 130 provides one additional factor for the person to consider. It would be administratively difficult for the Division of Worker's Compensation and the insurance company to believe they have something resolved but in actuality, it is not truly resolved. He said he couldn't support the amendment.

MS. HALL agreed.

[9:32:49 AM](#)

SENATOR THERRIAULT asked Mr. Lisanki whether his concern was based on the length of time or the mechanism for changing options.

MR. LISANKI responded both. The mechanism would be completely new. Ramifications would be hard to determine.

SENATOR THERRIAULT suggested the current system allows an employee to try and go back to work even during treatment.

MR. LISANKI agreed. Entitlement to the benefit being given up is premised on the ability to go back to the job.

[9:34:42 AM](#)

CHAIR SEEKINS said he has no objection to waiting 30 days.

SENATOR GUESS stated she contrived Amendment 11 in response to the new benefit and the unknown impact. She asked Mr. Lisanki to explain the reason for the job dislocation benefit.

[9:37:27 AM](#)

MR. LISANKI said reemployment benefits couldn't possibly be constructed to individual cases. The job dislocation benefit provides an option.

[9:38:57 AM](#)

SENATOR THERRIAULT moved to separate out the 30-day allowance from Amendment 11. Hearing no objection, the motion carried.

CHAIR SEEKINS moved Amendment 11(a). Hearing no objections, the motion carried.

[9:40:36 AM](#)

SENATOR GUESS moved Amendment 11(b).

SENATOR THERRIAULT objected. Roll call proved Amendment 11(b) failed 3-2 with Senators Huggins, Therriault, and Chair Seekins dissenting.

[9:42:30 AM](#)

CHAIR SEEKINS moved Amendment 12. Hearing no objections, the motion carried.

24-GS1112\G.4  
Craver  
4/7/05

**A M E N D M E N T 12**

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

Page 9, line 19, following "evaluation.":

Insert "If the company, firm, or other entity that employs a rehabilitation specialist selected by the administrator to perform an eligibility evaluation under this subsection is performing any other work on the same workers' compensation claim involving the injured employee, the administrator shall select a different rehabilitation specialist."

Chair Seekins announced a brief recess at [9:44:57 AM](#).

Chair Seekins reconvened the meeting at [10:02:48 AM](#).

CHAIR SEEKINS asked whether there were any more amendments to consider from the committee members.

SENATOR FRENCH moved Amendment 17.

CHAIR SEEKINS objected for discussion.

24-GS1112\G.3  
Craver  
11/3/05

**A M E N D M E N T 17**

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

BY SENATOR FRENCH

Page 28, line 12:  
Delete "March 1, 2007"

Insert "the first week of the First Regular Session of the Twenty-Fifth Alaska State Legislature"

Following "provide to the":

Insert "legislature and the"

[10:04:22 AM](#)

SENATOR FRENCH explained Amendment 17 refers to a medical review committee and would move the review date up two months and make certain the report is provided to the Legislature.

CHAIR SEEKINS removed his objection and Amendment 17 was adopted.

[10:06:27 AM](#)

SENATOR GUESS moved a conceptual amendment. Page 28, line 12 add the word "delivery" after the word "necessity." Hearing no objections, Amendment 18 was adopted.

[10:07:48 AM](#)

SENATOR THERRIAULT moved a conceptual amendment. Page 15, line 12, delete "prescribing" insert "attending." Hearing no objections, Amendment 19 was adopted.

[10:08:47 AM](#)

SENATOR GUESS asked the committee to revisit Amendment 2. She expressed concern with moving SB 130 to the Senate Standing Finance Committee with the changes they have made in regards to Amendment 2.

CHAIR SEEKINS asked Mr. Lisanki to discuss the history of how the limitation was placed on chiropractic visits.

MR. LISANKI explained in 1988 the Legislature was confronted with the possibility of limiting certain types of medical care in terms of frequency. The upshot of the 1988 Legislative Session was statutory authority that was given to the Worker's Compensation Board, which was authorizing them to address certain types of treatment, which were described as "continuing and multiple treatments of a similar nature." That has been viewed as covering things like physical therapy, chiropractic and similar healthcare treatments. The Board cast a regulation that speaks of the number of treatments that can be given during the 12-month period. The Board may allow more frequent treatments.

[10:11:42 AM](#)

MR. LISANKI continued there were no distinctions drawn as to whether a chiropractor could be considered an attending physician.

CHAIR SEEKINS clarified a chiropractor, at the end of his statutory authority, could collaborate with an allopath to extend the treatments.

MR. LISANKI agreed.

SENATOR THERRIAULT asked whether it isn't enough that the Board has the authority to authorize extended treatments.

MR. LISANKI said yes. The Board can revisit the regulations if necessary.

[10:14:46 AM](#)

SENATOR THERRIAULT asked Mr. Lisanki to clarify whether the current regulatory power of the Board applies to the attending physician as defined by statute.

MR. LISANKI responded it applies to the limited types of treatment described in statute.

SENATOR THERRIAULT inquired as to the need to restate.

CHAIR SEEKINS said the chiropractor should be on notice that a task force will examine the area of "continuing in multiple treatments of a similar nature."

[10:17:20 AM](#)

CHAIR SEEKINS said chiropractic care is an area where costs could be controlled more effectively.

SENATOR THERRIAULT moved to rescind Amendment 2. Hearing no objections, the motion carried.

SENATOR THERRIAULT moved an amendment to Amendment 2. Page 1, lines 12 and 13, delete the language after (f) and strike it all down to the comma after "occurs."

CHAIR SEEKINS clarified (f) would read, "a licensed chiropractor." Hearing no objections, the motion carried.

SENATOR THERRIAULT moved Amendment 2. Hearing no objections, the motion carried.

10:19:34 AM

CHAIR SEEKINS moved Amendment 13.

**A M E N D M E N T 13**

Sec 23.30.095. Preferred drug list; limitation of drug coverage.  
(n) The department shall adopt a preferred drug list by adoption  
of a regulation. The regulations must include

(1) standards for placing or not  
placing a drug on the preferred drug list;

(2) an opportunity for public comment  
before the department places or determines not to place a drug  
on the preferred drug list;

(3) an appeal process for a person who is affected by  
a decision of the department to place or not to place a drug on  
the preferred drug list; and

(4) a provision under which the department will  
approve coverage of a drug that is not on a preferred drug list  
without requiring additional medical justification if a  
physician documents on the prescription that the drug as  
prescribed is medically necessary for the patient as being the  
most effective drug available for the patient's condition by  
writing on the prescription the phrase "dispense as written,"  
"medically necessary," or other wording with similar import.

(o) Subject to AS 36.30 (State Procurement Code), the  
department may contract for the services necessary to assist the  
department in developing a preferred drug list or determining  
whether coverage for a drug should be limited.

(p) The commissioner shall appoint a Prescription Drug  
Review Advisory Committee consisting of practitioners who treat  
injured workers of at least two members who are licensed  
pharmacists under AS 08.80, at least two members who are  
licensed to practice medicine under AS 08.64, at least two  
members who are dentists licensed under AS 08.36 at least two  
advanced nurse practitioners licensed under AS 08.; and at  
least two Physician Assistants licensed under AS 08. .

(1) conducting public meetings on developing a  
preferred drug list or limiting coverage for a drug;

(2) assisting the department in setting standards in  
regulations for the review and selection of drugs for a referred  
drug list;

(3) reviewing each drug and making recommendations to  
the department as to whether the drug should be on a preferred  
drug list or subject to limitation of coverage under the  
standards adopted under (2) of this subsection.

(d) A committee member appointed under (p) of this section  
serves without compensation but is entitled to per diem and

travel expenses authorized for boards and commissions under AS 39.20.180. The committee shall select a chair form among its membership who may be removed from the position as chair only by a majority vote of the full committee.

(q) In this section,

(1) "drug" means a prescription drug;

(2) "preferred drug list" means a list of drugs

(A) that comprise a restrictive formulary;

(B) for which the department will not require a prior or retroactive prescription approval process;

(C) for which the department will not require medical justification by the prescriber as a condition of coverage under this chapter before the drugs may be dispensed to a recipient of assistance under this chapter; or

(D) for which the department will not establish other similar restrictions for coverage under this chapter

(E)

Renumber the following sections accordingly.

CHAIR SEEKINS explained the intent of Amendment 13 would delete the generic drug product, the use of the cookbook approach, and the fees. The Alaska State Medical Association proposed the amendment.

[10:23:57 AM](#)

Roll call proved Amendment 13 failed unanimously.

[10:26:12 AM](#)

CHAIR SEEKINS moved Amendment 14.

#### **A M E N D M E N T 14**

Page 15

Delete Section 24 lines 10 through 31;

Page 16

Delete Section 24 lines 1 through 7; and

Page 17

Delete Section 25 lines 1 through 27

CHAIR SEEKINS objected for discussion. The amendment would keep the current rates rather than rolling them back one year.

[10:26:40 AM](#)

MR. TIM KELLY, Alaska State Medical Association, explained Amendment 14 would change the date of the schedule use for the payment of medical fees from December 15, 2003 to the rates established on December 15, 2004.

[10:29:02 AM](#)

SENATOR GUESS asserted the issue was one for the task force to consider.

MS. HALL added one reason for looking into the worker's compensation system was to address ways to decrease costs for insurance purposes. She expressed concern with another year passing with no cost impact.

SENATOR THERRIAULT moved to amend Amendment 14 to say, "published bulletin in effect on December 1, 2003." Hearing no objections, the motion carried.

Roll call proved Amendment 14 failed 4-1 with Senators Huggins, Therriault, French, and Chair Seekins dissenting.

SENATOR HUGGINS moved Amendment 20. Line 15 delete "dated", insert "in effect." Change the date from December 15 to December 1, 2003. Hearing no objections, the motion carried.

[10:34:06 AM](#)

CHAIR SEEKINS asked for a committee member to sponsor Amendment 15. He asked Mr. Lisanki whether the committee was at the point to consider the American College of Occupational Environmental Medicine (ACOEM) practice guidelines in respect to an insurance company denying treatment.

MR. LISANKI responded there was nothing in the substance of the text to indicate that.

CHAIR SEEKINS asked whether the Board would feel more comfortable were the Legislature add the verbiage clarifying the ACOEM guidelines could not be used to deny treatment.

MR. LISANKI said yes.

[10:36:30 AM](#)

SENATOR GUESS said that was addressed in Amendment 3.

Amendment 15 was withdrawn.

[10:37:33 AM](#)

CHAIR SEEKINS assigned Amendment 16 to the task force.

[10:38:30 AM](#)

CHAIR SEEKINS revisited Amendment 1 and said he would like to expand the legislative membership to one member from the minority to be determined by the Speaker and the Senate President.

[10:40:22 AM](#)

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

SENATOR THERRIAULT moved a conceptual amendment to Amendment 1. The Speaker and the President of the Senate would select a member of the minority jointly. Hearing no objections, the motion carried.

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

[10:41:19 AM](#)

CHAIR SEEKINS complimented the minority members of the Senate Judiciary Standing Committee.

SENATOR HUGGINS moved CSSB 130(JUD) from committee with individual recommendations and attached fiscal note(s). There being no objection, the motion carried.

There being no further business to come before the committee, Chair Seekins adjourned the meeting at [10:42:10 AM](#).