

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

February 14, 2006

1:35 p.m.

MEMBERS PRESENT

Senator Con Bunde, Chair
Senator Ralph Seekins, Vice Chair
Senator Ben Stevens
Senator Johnny Ellis
Senator Bettye Davis

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 244

"An Act prohibiting unfair discrimination against an acupuncturist; amending the definition of 'provider' as it relates to authorized collective negotiations by physicians affecting the rights of providers under health benefit plans; and providing for an effective date."

MOVED SB 244 OUT OF COMMITTEE

SENATE BILL NO. 177

"An Act eliminating the requirement that persons using titles or descriptions of services that incorporate the terms 'psychotherapy,' 'psychotherapeutic,' or 'psychotherapist' be licensed by the Board of Psychologist and Psychological Associate Examiners."

MOVED CSSB 177(HES) OUT OF COMMITTEE

SENATE BILL NO. 222

"An Act relating to breaches of security involving personal information, consumer report security freezes, consumer credit monitoring, credit accuracy, protection of social security numbers, disposal of records, factual declarations of innocence after identity theft, filing police reports regarding identity theft, and furnishing consumer credit header information; and amending Rule 60, Alaska Rules of Civil Procedure."

MOVED CSSB 222(L&C) OUT OF COMMITTEE

SENATE BILL NO. 255

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

MOVED CSSB 255(L&C) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 244

SHORT TITLE: NO DISCRIMINATION AGAINST ACUPUNCTURIST

SPONSOR(s): SENATOR(s) WAGONER

01/19/06 (S) READ THE FIRST TIME - REFERRALS
01/19/06 (S) L&C, HES
02/07/06 (S) L&C AT 1:30 PM BELTZ 211
02/07/06 (S) Heard & Held
02/07/06 (S) MINUTE(L&C)
02/14/06 (S) L&C AT 1:30 PM BELTZ 211

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

BILL: SB 222

SHORT TITLE: PROTECTION OF PERSONAL INFORMATION

SPONSOR(s): SENATOR(s) THERRIault, GUESS

01/09/06 (S) PREFILE RELEASED 12/30/05
01/09/06 (S) READ THE FIRST TIME - REFERRALS
01/09/06 (S) L&C, JUD
01/24/06 (S) L&C AT 1:30 PM BELTZ 211

01/24/06 (S) Heard & Held
01/24/06 (S) MINUTE(L&C)
02/14/06 (S) L&C AT 1:30 PM BELTZ 211

BILL: SB 255

SHORT TITLE: OPTOMETRY: EXTEND BD/ LIC. ENDORSEMENT
SPONSOR(S): RULES BY REQUEST OF LEG BUDGET & AUDIT

01/30/06 (S) READ THE FIRST TIME - REFERRALS
01/30/06 (S) L&C, FIN
02/14/06 (S) L&C AT 1:30 PM BELTZ 211

WITNESS REGISTER

SENATOR THOMAS WAGONER
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor of SB 244.

KATIE CAMPBELL
Life and Health Actuary
Division of Insurance
Department of Commerce, Community & Economic Development
PO Box 110800
Juneau, AK 99811-0800

POSITION STATEMENT: Commented on SB 244.

MELANIE MILHORN, Director
Division of Retirement and Benefits
Department of Administration
PO Box 110200
Juneau, AK 99811-0200

POSITION STATEMENT: Commented on SB 244.

MS. FREDA MILLER
Aetna Representative
Juneau AK 99801

POSITION STATEMENT: Commented on SB 244.

SENATOR FRED DYSON
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor of SB 177.

DAVE STANCLIFF
Staff to Senator Therriault
Alaska State Capitol

Juneau, AK 99801-1182

POSITION STATEMENT: Commented on SB 222 for co-sponsor.

WAYNE LEIGHTY

Staff to Senator Guess

Alaska State Capitol

Juneau, AK 99801-1182

POSITION STATEMENT: Commented on SB 222 for co-sponsor.

STEVE CLEARY

Alaska Public Interest Research Group (AKPIRG)

Anchorage AK

POSITION STATEMENT: Supported SB 222.

SENATOR THERRIAULT

Alaska State Capitol

Juneau, AK 99801-1182

POSITION STATEMENT: Co-sponsor of SB 222 and sponsor of SB 255.

SENATOR GRETCHEN GUESS

Alaska State Capitol

Juneau, AK 99801-1182

POSITION STATEMENT: Co-sponsor of SB 222.

TOM MAHER

Staff to Senator Gene Therriault

Alaska State Capitol

Juneau, AK 99801-1182

POSITION STATEMENT: Commented on SB 255 for the sponsor.

RICK URION, Director

Division of Corporations, Business and Professional Licensing,

Department of Commerce, Community & Economic Development

PO Box 110800

Juneau, AK 99811-0800

POSITION STATEMENT: Supported SB 255.

PAT DAVIDSON

Division of Legislative Audit

Alaska State Capitol

Juneau, AK 99801-1182

POSITION STATEMENT: Supported SB 255.

ACTION NARRATIVE

CHAIR CON BUNDE called the Senate Labor and Commerce Standing Committee meeting to order at [1:35:24 PM](#). Present were Senators

Johnny Ellis, Ralph Seekins, Ben Stevens and Chair Con Bunde. Senator Bettye Davis arrived at 1:36.

[1:36:19 PM](#)

SB 244-NO DISCRIMINATION AGAINST ACUPUNCTURIST

CHAIR CON BUNDE announced SB 244 to be up for consideration.

SENATOR THOMAS WAGONER, sponsor of SB 244, explained that AS 21 only applies to employers not large enough to fund their own health plans. This bill does not apply to individual insurance, self-funded employer groups, government programs, Medicare, military, federal employees or Medicaid.

[1:37:50 PM](#)

SENATOR RALPH SEEKINS asked for examples of group health care service in Alaska.

[1:39:49 PM](#) at ease [1:40:06 PM](#)

KATIE CAMPBELL, Life and Health Actuary, Department of Commerce, Community & Economic Development, replied that the only non-profit health organization Alaska has is Primera; it doesn't have HMO's.

SENATOR SEEKINS asked if this bill would only apply to Primera.

MS. CAMPBELL replied no; it would apply to all health insurers like Aetna.

[1:41:18 PM](#)

CHAIR BUNDE asked if the fiscal note would change with this new information.

SENATOR WAGONER replied yes, the Division of Retirement and Benefits fiscal note would change and join the packet on its way through the legislature.

[1:43:15 PM](#)

SENATOR SEEKINS said he heard this should save the state money since acupuncture can address some medical problems with cheaper treatments. He wanted to hear what the allopathic community thought about it.

[1:46:17 PM](#)

SENATOR BEN STEVENS asked if there would be an additional fiscal note to the one from 2/7.

MS. MILHORN replied yes.

SENATOR BEN STEVENS asked:

In the analysis of the fiscal note provided on 2/7/06, it says, 'Adding this provider type to the list of covered providers under AS 21.06 would not expand additional coverage for their services without a plan modification.' So, am I interpreting that to say that even if we pass this, unless the provider approves a plan modification that it's not going to cost anything?

MS. FREDA MILLER, Health Benefits Manager, Division of Retirement and Benefits, replied that that fiscal note was prepared before she learned additional information after speaking with their third-party administrator for the health plans.

[1:48:31 PM](#)

SENATOR SEEKINS moved SB 244 from committee with individual recommendations and with the understanding that the new fiscal note would catch up with it in the next committee. Senators Ben Stevens, Davis, Ellis, Seekins and Chair Bunde voted yea; and SB 244 was moved from committee.

[1:49:19 PM](#)

SB 222-PROTECTION OF PERSONAL INFORMATION

CHAIR BUNDE announced SB 222 to be up for consideration and then noted he would set it aside to wait for the bill's sponsor.

[1:49:58 PM](#)

SB 177-PRACTICE OF PSYCHOLOGY

CHAIR CON BUNDE announced SB 177 to be up for consideration.

SENATOR FRED DYSON, sponsor, said the administration requested this bill allows access to third-party payments. Currently, professional care providers who are providing very legitimate care for patients can't use the titles that federal law requires for them to receive Medicaid payments and those professionals supported adding the word "psychoanalyst" to the code. The department is already doing what the federal law requires and this brings code into compliance with need and practice.

CHAIR BUNDE asked if there was any opposition to the bill.

SENATOR DYSON replied no.

[1:53:12 PM](#)

SENATOR RALPH SEEKINS moved to pass CSSB 177(HES) from committee individual recommendations and attached fiscal note. Senators Ellis, Davis, Ben Stevens, Seekins, and Chair Bunde voted yea and CSSB 177(HES) moved from committee.

[1:53:49 PM](#)

SB 222-PROTECTION OF PERSONAL INFORMATION

CHAIR CON BUNDE announced SB 222 to be back up for consideration.

SENATOR RALPH SEEKINS moved to adopt CS SB 222(L&C), version F.

SENATOR JOHNNY ELLIS objected for discussion purposes.

MR. WAYNE LEIGHTY, staff to Senator Therriault, co-sponsor of SB 222, testified that the first change adds law enforcement agencies to Alaska's Department of Public Safety that is authorized to put a temporary hold on a "Notice of Breach of Security" while an investigation is performed. Item two conforms language to current California law regarding how documents with social security numbers on them are mailed.

Item three allows for situations when collection or submission of a social security number is under state or federal law. Item four adds language to the social security number section to clarify that a business can require other forms of identification to verify the identity of a person they are doing business with. Item five, Article 8, is a new section and requires truncation of a credit card number on all printed receipts. Under the general provisions in Article 9 "or conflicts" is deleted and states that federal law is preemptive. He said they continue to work with the stakeholders

SENATOR ELLIS removed his objection and version F was adopted.

[2:00:35 PM](#)

SENATOR BUNDE asked if a driver's license could still be used.

MR. DAVE STANCLIFF, staff to Senator Therriault, co-sponsor of SB 222, replied yes, but added that industry is finding other

ways to verify identifications, which would give those companies the competitive edge.

[2:02:57 PM](#)

SENATOR SEEKINS said he wouldn't support this bill unless the state was held to the same accountability standard as private industry.

MR. LEIGHTY informed the committee that it is possible for individuals to get credit reports and background checks completed without using social security numbers now.

CHAIR BUNDE said the state is issuing I.D.s without social security numbers.

[2:05:34 PM](#)

SENATOR SEEKINS said he thought this bill would change the way he analyzes credit in his automobile dealership. But customers should still know that their information must be accurate with the understanding that if it isn't accurate, it constitutes fraud and has a penalty that goes with it.

STEVE CLEARY, Alaska Public Interest Research Group (AKPIRG), supported SB 222. He said that the Choice Point Incorporated Company leaked a lot of personal information that exposed consumers to identify theft about a year ago. Since that time more than 52 million people have been put in danger of identify theft because of security breaches. Alaska topped the nation in fraud complaints last year with 249 per 100,000 persons according to a Federal Trade Commission (FTC) report that also states that identify theft has topped the list of nationwide complaints for the sixth year in a row. The average consumer spends about 175 hours of their own time clearing their name after an identity theft.

MR. CLEARY said the two most important measures in SB 222 mandate that consumers be notified after a security breach, which would allow them to freeze their credit reports. This would at the very least minimize or even eliminate the danger of identity theft. Twenty-seven states have filed security freeze bills and 12 states have these laws now.

[2:13:19 PM](#)

SENATOR SEEKINS asked if the biggest threat is being able to access someone's credit report, people leave their personal information in many places during the course of a day. He related that for him to rent a car in Orlando, he had to show

his driver's license that has his social security number, address and name on it. "With those three things, you can really get into someone's - you can steal their identity."

[2:18:23 PM](#)

SENATOR THERRIAULT agreed that it gets easier every day to access people's information and lawmakers must try to keep up with the new ways.

[2:20:46 PM](#)

SENATOR BEN STEVENS agreed with Senator Seekins that public entities have to be held accountable the same as private ones. He related how he banks, invests and pays everything online and he went through an exercise to see how easy it would be to steal his identity and he easily accessed his personal information from a Virginia county tax roll, a Mat-Su borough tax roll, the Anchorage municipality tax roll and on the state web page for the Commercial Fisheries Entry Commission. So, where he actively transacts in money, he couldn't get it, but in all the places he did find it, it was related to a government entity.

[2:22:28 PM](#)

SENATOR ELLIS agreed that government must be held to high standards. He asked if the administration had indicated it was heading in that direction.

SENATOR GUESS also agreed that the government has to be held to the same standard as private industry and stated that she had received a three-page letter from the Attorney General's Office saying that, while the state might have instances when it needs to get a social security number, there are many instances in which it gathers social security numbers without a legal reason. She said, "We're trying to parse through those right now."

Other issues have arisen such as if the state should be open to civil suits or whether it should be held to the same standard in all instances. She said:

It is our belief that we shouldn't differentiate between business and government. It's people who have our personal information and those will be the discussions that we're going to have in Senate Judiciary.

[2:24:46 PM](#)

SENATOR SEEKINS moved to report CSSB 222(L&C), version F, from committee with individual recommendations and attached fiscal

note. Senators Ellis, Seekins, Ben Stevens, Davis, and Chair Bunde voted yea; and it was so ordered.

[2:25:33 PM](#)

SB 255-OPTOMETRY: EXTEND BD/ LIC. ENDORSEMENT

CHAIR CON BUNDE announced SB 255 to be up for consideration.

TOM MAHER, staff to Senator Therriault, explained that SB 255 extends the sunset date for the Board of Examiners from June 30, 2006 to June 30, 2014 as per the Legislative Audit's conclusion.

He recapped that last year the legislature passed some changes to the sunset process. One was changing the standard sunset from four years to not to exceed eight, although the legislature could go with any date it wants.

Two more criteria were added to the auditor's job because sunsets are becoming less about eliminating the entity and more about measuring operational performance. Those criteria are the extent to which the board or commission has effectively attained its objectives, the efficiency with which it's operated and the extent to which the board or commission is duplicating other agencies' work.

On page 7 of the report, recommendation 2, recommended that the legislature amend optometry statutes to ensure they support current license endorsements for the diagnostic use of pharmaceutical agents. He explained:

Currently, language provides for a single endorsement for both prescribed and use. However, the Board of Examiners in Optometry is issuing two types of endorsements. The first allows a practitioner both prescribed and use pharmaceutical agents and the second type allows a practitioner use only. Current law does not authorize the use-only endorsement. SB 255 corrects this situation by adding a section authorizing a use only endorsement and also grandfathers in the practitioners that were given that endorsement over the years - since, I believe, 1992.

MR. MAHER noted that the Department of Commerce, Community & Economic Development supported SB 255. The Board's response was not clear and he hoped that would be addressed today. He said,

But our intent with the legislation is pretty simple. We want to change the law to make current practices legal. We want to grandfather license holders in and make sure we don't leave any practitioners out. That could have an impact on the number of providers serving the public and, hopefully, maximize the number of practitioners that can practice in Alaska.

[2:30:58 PM](#)

RICK URION, Director, Division of Corporations, Business and Professional Licensing, supported SB 255.

CHAIR BUNDE moved to adopt Amendment 1 as follows:

On page 2, line 25 insert a new section to read:

Sec. 6 AS 08.72.181(d) is amended to read:

(d) Before a license may be renewed, the licensee shall submit to the board evidence of [24 HOURS OF] postgraduate continuing education instruction as prescribed by regulations of the board. The board may specify by regulation those circumstances under which the requirements of this subsection may be waived.

Re-number remaining bill sections.

CHAIR BUNDE objected for discussion purposes.

MR. URION stated that the amendment was suggested by the board and removes the 24-hour requirement for continuing education and allows the department to do that in regulation, which is how all other licensing programs are handled.

CHAIR BUNDE asked if the regulation would require an equal amount of continuing education time as the statute does.

MR. URION replied yes, but that could be adjusted as necessary.

[2:32:43 PM](#)

SENATOR SEEKINS asked if the department could set up his own rules and change them whenever it wanted to.

MR. URION replied that they are required to have continuing education by statute, but the hours are typically set forth in regulation and he didn't think they would be any less than what

they are now. He said that all the continuing education requirements are consistently being made in regulation.

SENATOR SEEKINS said he didn't object to that, but the new language looks like it would be allowing regulation to trump statute. "So, we don't specify how many hours and they can change it whenever they want to." He wanted to know why the requirement for a certain numbers of hours was being deleted, since they are providing a guideline of at least 24 hours.

MR. URION suggested that the last sentence could be deleted if Senator Seekins would be more comfortable with that language.

CHAIR BUNDE said he wanted Mr. Stancliff's and Ms. Davidson's reaction to the proposed amendment.

[2:36:01 PM](#)

MR. STANCLIFF responded that in general they are careful with addressing amendments in sunset bills - because of complaints that some have become vehicles for too much. The chair of Legislative Budget and Audit said, because the language was suggested by the department and because it was addressed in the audit report and both responses from the department and the board, he had no opposition to it. Senator Seekins' question was new and that last sentence could be deleted.

PAT DAVIDSON, Division of Legislative Audit, explained that having continuing education requirements is very typical. However, often times minimum hours are not specified. Typically, regulations detailed hours, particular courses and that sort of thing, rather than statute. Waiving CPE requirements is not totally uncommon for extended illness and various other things, but is totally up to the committee whether it wants to delegate that authority to the board.

SENATOR SEEKINS moved Amendment 1 to Amendment 1 to delete: "The board may specify by regulation those circumstances under which the requirements of this subsection may be waived." He did not think it was the legislature's intent to waive the ability to require continuing education.

There were no objections and Amendment 1 to Amendment 1 was adopted.

CHAIR BUNDE asked if anyone objected to adopting Amendment 1(am). There were no objections and it was so ordered.

[2:40:19 PM](#)

SENATOR SEEKINS moved to report CSSB 255(L&C) from committee with individual recommendations with the forthcoming fiscal note. Senators Bens Stevens, Ellis, Seekins Davis, and Chair Bunde voted yea; and it was so ordered.

CHAIR BUNDE adjourned the meeting at [2:41:25 PM](#).