

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

March 6, 2007

3:02 p.m.

**MEMBERS PRESENT**

Representative Peggy Wilson, Chair  
Representative Bob Roses, Vice Chair  
Representative Anna Fairclough  
Representative Paul Seaton  
Representative Sharon Cissna  
Representative Berta Gardner

**MEMBERS ABSENT**

Representative Mark Neuman

**COMMITTEE CALENDAR**

HOUSE BILL NO. 148

"An Act relating to the senior care program; and providing for an effective date."

- MOVED HB 148 OUT OF COMMITTEE

HOUSE BILL NO. 136

"An Act relating to dental hygienists."

- MOVED HB 136 OUT OF COMMITTEE

HOUSE BILL NO. 159

"An Act relating to the issuance of a certificate of birth resulting in a stillbirth."

- HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 148

SHORT TITLE: SENIOR CARE

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/21/07	(H)	READ THE FIRST TIME - REFERRALS
02/21/07	(H)	HES, FIN
03/06/07	(H)	HES AT 3:00 PM CAPITOL 106

BILL: HB 136

SHORT TITLE: DENTAL HYGIENISTS

SPONSOR(S): REPRESENTATIVE(S) STOLTZE

02/14/07 (H) READ THE FIRST TIME - REFERRALS  
02/14/07 (H) HES, L&C  
03/06/07 (H) HES AT 3:00 PM CAPITOL 106

BILL: HB 159

SHORT TITLE: STILLBIRTH CERTIFICATE

SPONSOR(S): REPRESENTATIVE(S) GATTO

02/28/07 (H) READ THE FIRST TIME - REFERRALS  
02/28/07 (H) HES, JUD  
03/06/07 (H) HES AT 3:00 PM CAPITOL 106

**WITNESS REGISTER**

KARLEEN JACKSON, Commissioner  
Department of Health & Social Services (DHSS)  
Juneau, Alaska  
POSITION STATEMENT: Presented HB 148, at the governor's request, and responded to questions.

ELLIE FITZJARRALD, Acting Director  
Division of Public Assistance (DPA)  
Department of Health & Social Services (DHSS)  
Juneau, Alaska  
POSITION STATEMENT: Responded to questions regarding HB 148.

MICHAEL FORD  
Alaska Native Health Board  
Juneau, Alaska  
POSITION STATEMENT: Testified in support of HB 148.

HERB SIMON  
Nelchina, Alaska  
POSITION STATEMENT: Testified in support of HB 148.

PAT LUBY, Advocacy Director  
Alaska Chapter  
American Association of Retired Persons (AARP)  
Anchorage, Alaska  
POSITION STATEMENT: Testified in support of HB 148.

JANET CLARKE, Assistant Commissioner  
Department of Health & Social Services (DHSS)

Juneau, Alaska

POSITION STATEMENT: Responded to questions regarding HB 148.

REPRESENTATIVE BILL STOLTZE

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Introduced HB 136, as prime sponsor.

BEN MULLIGAN, Staff

to Representative Bill Stoltze

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented HB 136, on behalf of Representative Stoltze, prime sponsor.

DELISA CULPEPPER, Chief Operating Officer

Alaska Mental Health Trust Authority

Department of Revenue

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 136.

SONIA HANDFORTH-KOME, Executive Director

Iliuliuk Health Clinic

Unalaska, Alaska

POSITION STATEMENT: Testified in support of HB 136.

VICKY HOFF

Alaska Dental Hygiene Association

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 136.

JENNIFER MCELROY, Dental Hygienist

Kenai Peninsula Dental Hygiene Association

Soldotna, Alaska

POSITION STATEMENT: Testified in support of HB 136.

GAIL WALDEN, Dental Hygienist

Member, Alaska Dental Hygienist Association

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 136.

DAVID LOGAN, Doctor of Dentistry

Chairman, Alaska Dental Society

POSITION STATEMENT: Testified in opposition to HB 136.

REPRESENTATIVE CARL GATTO

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented HB 159, as prime sponsor.

SANDRA WILSON, Staff  
to Representative Carl Gatto  
Alaska State Legislature

POSITION STATEMENT: Responded to questions on HB 159.

PHILLIP MITCHELL, Section Chief  
Bureau of Vital Statistics (BVS)  
Department of Health & Social Services (DHSS)  
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 159.

DARRELL LOGULLO, Volunteer  
Mothers in Sympathy & Support (MISS) Foundation  
(No address provided)

POSITION STATEMENT: Testified in support of HB 159.

RICHARD OLSEN, Founder  
National Stillbirth Association  
(No address provided)

POSITION STATEMENT: Testified in support of HB 159.

#### **ACTION NARRATIVE**

**CHAIR PEGGY WILSON** called the House Health, Education and Social Services Standing Committee meeting to order at [3:02:38 PM](#). Representatives Roses, Seaton, and Fairclough were present at the call to order. Representatives Cissna and Gardner arrived as the meeting was in progress.

#### HB 148-SENIOR CARE

[3:03:13 PM](#)

CHAIR WILSON announced that the first order of business would be HOUSE BILL NO. 148, "An Act relating to the senior care program; and providing for an effective date."

[3:03:42 PM](#)

KARLEEN JACKSON, Commissioner, Department of Health & Social Services (DHSS), presented HB 148, paraphrasing from a prepared statement, which read as follows [original punctuation provided]:

The SeniorCare program helps low-income seniors in Alaska by providing cash assistance of \$120 a month or a prescription drug subsidy for Medicare Part D. The SeniorCare program is due to sunset June 30 of this year.

More than 7,000 seniors use the program – or more than 15 percent of the state’s senior population – demonstrating that it is needed and used by Alaska seniors.

Governor Palin is proposing this legislation to improve the program and extend SeniorCare for another five years.

Changes to SeniorCare will help keep it effective and simplify the administration of the program – which includes updating the income limit for eligibility and eliminating the prescription drug assistance program.

The current SeniorCare income eligibility threshold, frozen at 135 percent of the 2005 federal poverty limit, does not reflect the reality of rising costs. The current, annually adjusted federal poverty level for Alaska must be used to keep pace with the rising cost of living, which is what this legislation proposes.

By tying SeniorCare eligibility to current federal poverty rates, updated each year, modest cost-of-living adjustments to seniors’ income, such as Social Security, will not nudge them over the income limit for eligibility.

The change would raise eligibility levels only modestly: at the 2007 poverty level, the SeniorCare income limit would rise to \$17,240 for a single person and \$23,112 for a couple (Current SeniorCare eligibility: \$16,133/Single, \$17,240/couple). The liquid assets these seniors would be allowed to hold would stay the same – \$6,000 for an individual and \$9,000 for a couple.

There is low demand for the SeniorCare prescription drug subsidy – only about 140 seniors are receiving that assistance. A statewide survey found many seniors have access to insurance which covered

premiums and deductibles, or they qualified for other assistance, which is why we had such low participation.

Therefore we are eliminating this benefit, and simplifying the administration of the SeniorCare program.

[3:07:07 PM](#)

REPRESENTATIVE SEATON referred to the annual federal poverty guidelines, stipulated on page 2, line 7, and asked if these are published, and available for implementation, when a senior makes application to the program, or if application is based on the previous year's poverty guidelines.

[3:07:52 PM](#)

ELLIE FITZJARRALD, Acting Director, Division of Public Assistance (DPA), Department of Health & Social Services (DHSS), responded that the annual, federal, poverty guidelines are published at the beginning of each calendar year, and implemented immediately by the state.

[3:08:31 PM](#)

REPRESENTATIVE SEATON clarified that a senior applying at anytime, during the year, would have a possibility to be eligible for the program.

MS. FITZJARRALD explained that a senior's renewal process is based on their income on the date of the application. This can change any given month, based on the fluctuation of a senior's monthly income; however, she noted that most of the seniors have static incomes. To a follow-up question, she stated that, if a senior's application is denied based on the poverty guidelines, the senior is counseled to reapply.

[3:11:14 PM](#)

CHAIR WILSON established that the state's fiscal year begins annually on July 1<sup>st</sup>, and asked how the federal guidelines interface with Alaska's budgeting process.

MS. FITZJARRALD answered that the division uses a historical average for budget requests.

[3:12:04 PM](#)

MICHAEL FORD, Alaska Native Health Board, stated support for HB 148, and said that it represents an important aspect of a low income senior's monthly income. He recommended that an amendment be considered to remove the sunset date.

[3:13:31 PM](#)

HERB SIMON, stated support for HB 148, and asked how the poverty level is determined.

CHAIR WILSON responded that it is a federally established level, and the state department decides "what percentage of that we're going to accept."

MR. SIMON pointed out that the federal employees draw a cost of living allowance (COLA), and suggested that the federal standard may be skewed with what the actual living costs are in Alaska.

CHAIR WILSON agreed, and observed this as the reason that Alaska uses 135 percent of the federal poverty level vs. 100 percent, when determining eligibility for this benefit.

MR. SIMON inquired how this contrasts with previous senior benefit levels.

CHAIR WILSON speculated that a set amount was utilized, and offered to have this clarified by the department.

REPRESENTATIVE FAIRCLOUGH offered that the amount had been frozen, using the 2005 poverty level, but that has now been released to allow the benefit to keep pace with cost of living increases.

CHAIR WILSON opined that this modification should protect seniors from being denied benefits, if they are borderline eligible, as happened in the past year.

MR. SIMON commented that a "one size fits all" approach does not always work in Alaska, with the wide variation of living costs between the urban and remote areas. He urged passage of the bill.

[3:17:38 PM](#)

PAT LUBY, Advocacy Director, American Association of Retired Persons (AARP), stated support for HB 148, citing the importance of the governor's proposal to include annual indexing of the program based on the federal poverty level. He suggested three areas that require additional consideration by the legislature: the assets test limiting the savings of elders; raising the monthly stipend from \$120 to possibly \$150; and the gap, which 140 seniors experienced, due to the federal poverty level adjustment.

[3:20:02 PM](#)

CHAIR WILSON closed public testimony.

[3:20:14 PM](#)

REPRESENTATIVE SEATON referred to the fiscal note, and asked why the yearly total for FY 2013 indicates a \$7 million increase to \$12 million; the previous 5 year totals are approximately \$5 million.

[3:20:48 PM](#)

JANET CLARKE, Assistant Commissioner, Department of Health & Social Services (DHSS), explained how the FY 2013 total is effected by the five year sunset clause, requiring legislative action for reauthorization. She described the fiscal note in further detail.

[3:24:52 PM](#)

REPRESENTATIVE ROSES stated that the fiscal note is confusing, particularly because it is projected for a future budget. Further, he attempted to establish how the Alaska Longevity Bonus (ALB) projections and the Senior Care Program costs interface in the fiscal note analysis.

MS. CLARKE directed the committee's attention to the second page of the fiscal note, labeled Assumptions, and explained that the fiscal note is consistent with the established assumptions.

[Further committee discussion ensued to clarify the fiscal note assumptions in conjunction with the two senior programs.]

[3:28:36 PM](#)

REPRESENTATIVE SEATON requested that the committee receive an analysis for HB 148, without the complication of other issues, or a contingency based on the passage of another bill. He referred to page 2, line 4, and asked if the age 65 requirement should state "must be Medicare eligible," to correspond with any federal changes that may occur.

MS. CLARKE responded, "This is a state funded program; the state can set the rules. The current rules are 65." She pointed out that this is a cash benefit, which sets it apart from a Medicare health benefit.

[3:36:02 PM](#)

REPRESENTATIVE FAIRCLOUGH moved to report HB 148 out of committee with individual recommendations and the accompanying amended fiscal notes. There being no objection, HB 148 was reported out of the House Health, Education and Social Services Standing Committee.

#### HB 136-DENTAL HYGIENISTS

CHAIR WILSON announced that the next order of business would be HOUSE BILL NO. 136, "An Act relating to dental hygienists."

[3:37:17 PM](#)

REPRESENTATIVE BILL STOLTZE, Alaska State Legislature, introduced HB 136, as prime sponsor. He explained that this bill serves two purposes: allowing dental hygienists to perform work, which they feel capable of undertaking; and creating a policy directive that will allow preventative oral health care in underserved areas of the state.

CHAIR WILSON stated her intention to hear testimony on HB 136, and hold it in committee for further consideration.

[3:40:22 PM](#)

BEN MULLIGAN, Staff to Representative Bill Stoltze, Alaska State Legislature, presented HB 136, on behalf of Representative Stoltze, prime sponsor, paraphrasing from the sponsor statement, which read as follows [original punctuation provided]:

The provisions of House Bill 136 follow the expanded functions of dental hygienists in other states to

improve access to preventative oral health care. Specifically, HB 136:

1. Allows a licensed dental hygienist to place "fillings" into a cavity prepared by a licensed dentist.
2. Authorizes a licensed dental hygienist to administer local anesthetic agents under the general supervision of a licensed dentist.
3. Permits a licensed dental hygienist to enter into a collaborative agreement with a licensed dentist in which the dentist authorizes the dental hygienist to perform certain duties stipulated under HB 136 without the supervision of the dentist.

MR. MULLIGAN stated that currently a hygienist is allowed to administer local anesthetic agents under the indirect supervision of a licensed dentist. Additionally, a collaborative agreement could be entered into, which would allow a hygienist to perform the expanded functions, as listed in the bill.

[3:41:19 PM](#)

CHAIR WILSON defined "direct supervision" as having the dentist in the same room, "indirect supervision" requires that the doctor be in the same building, and "general supervision" allows the hygienist to perform procedures under the auspices of a dentist.

REPRESENTATIVE STOLTZE opined that HB 136 will sanction actions that already occur, to some degree, in dental offices.

[3:43:05 PM](#)

DELISA CULPEPPER, Chief Operating Officer, Alaska Mental Health Trust Authority, Department of Revenue, stated departmental support for HB 136, stating that it will be "a good move," and will support efforts to provide dental care throughout the state. Dental hygienists were licensed to administer local anesthesia in 1976, she reported, and have been practicing the procedures with no adverse consequences. Placing fillings in a prepared [tooth] is something that "nation-wide, dental hygienists have done for years, and [it has] proven effective." The collaborative agreement will help to address dental care in

rural Alaska and the hub communities. She also pointed out the significant support for this bill from various dental agencies.

[3:44:57 PM](#)

SONIA HANDFORTH-KOME, Executive Director, Iliuliuk Health Clinic, stated support for HB 136, and she described the clinic as a 501(c)(3) non-profit community health center. Prior to the time when the clinic employed a fulltime dentist, the area was served by two dentists who traveled to the clinic on a part-time basis. The hygienist lived in the community but was unable to serve the "thousands" of patients, preventive or otherwise, because there was not a dentist in town. Inhibiting the hygienists from providing continuous, preventive care, does not keep pace with the mid-level provider concept that is common in the health care profession. She opined that the practice makes sense for non-profit, as well as for-profit, practitioners. This is a cost effective way to increase access to dental care, and to invoke a habit in people to visit a dental office. With regular dental care, diabetes and other health issues can be addressed.

[3:48:29 PM](#)

VICKY HOFF, Alaska Dental Hygiene Association, stated support for HB 136, stressing the importance of the potential impact for increasing the hygienist's scope of practice. The hygienist will still be supervised by a dentist, but will have the ability to provide a local anesthetic and perform involved work. In the villages, she reported, if a deep cleaning requires a local anesthetic the hygienist is currently unable to be of service.

[3:50:13 PM](#)

JENNIFER MCELROY, Dental Hygienist, Kenai Peninsula Dental Hygiene Association, stated support for HB 136, and expressed concern particularly for the senior group, and nursing homes. She reported that these homes, including ones located in community hubs, are not visited by dentists, although many of these seniors are unable to access a dental office. Having someone who can visit the senior's in group or nursing homes is important, and cost effective, she opined, and stressed that oral health is important for total health.

[3:53:15 PM](#)

GAIL WALDEN, Dental Hygienist, Member, Alaska Dental Hygienist Association, stated support for HB 136, paraphrasing from prepared statement, which read as follows [original punctuation provided]:

The needs of Alaskans are not being met by the current oral health care delivery system.

Current statutes and regulations prevent dental hygienists from providing oral health care to the public in non-traditional settings.

Dental hygienists receive a comprehensive education, are licensed, and regulated by the state, we have mandatory continuing education and CPR requirements.

Ultimately, hygienists are not being utilized to their full potential.

The Alaska Board of Dental Examiners, which licenses and regulates dentists and dental hygienists, met in February and voted to support HB 136. They concluded that the proposed statute changes are consistent with their vision to ensure that all Alaskans receive the best possible care.

In addition to BODE, HB 136 has also received support from the Oral Health Coalition, Alaska Primary Care Association, and the AARP.

#### Restorative Function License Endorsement

Creates an efficient health care delivery system that increases the number of patients that can be seen in a limited amount of time.

Procedures would be done under the direct supervision of a licensed dentist, and by hygienists that are educated and licensed to provide these additional services.

The curriculum, examining, and licensing for restorative functions by dental hygienists has already been established in such states as Washington—just needs to be implemented in Alaska.

#### Local Anesthesia

Statutes since 1981, there has never been disciplinary action taken against hygienist for administration of local anesthesia under the current statutes.

Dental Hygienists need and use local anesthesia to reduce stress and provide pain control in the treatment of moderate to advanced gum disease.

Under general supervision a dentist is still required to diagnose and treatment plan the patient's needs: and whether or not a hygienist administers local anesthesia without the dentist in the practice remains at the discretion of the supervising dentist.

There are 40 states where hygienists are licensed to administer local anesthesia, 2 of those states ID and OR can deliver local anesthesia under general supervision.

#### Collaborative Agreement

Has the potential to provide the greatest impact to Alaskan communities.

Allows hygienists with experience to enter into a written agreement with a dentist that must be approved by the Board of Dental Examiners.

The hygienist would be able to provide services listed under the agreement without supervision, and prior to the dentist seeing the patient.

Would allow hygienists access to nursing homes and hospital facilities, homebound individuals, schools, Head-Start Programs, and rural areas where dentists are rarely available.

Intended benefit is to reach individuals that are not receiving care and provide preventive services that not only increase oral health but general health and well being.

#### In Conclusion

All of these dental hygiene statute changes have been implemented in other states and have proven to be safe

and effective. All statutes show our continued professional commitment to working collaboratively with dentists and providing services to the public by dental professionals that are formally educated and licensed by the State of Alaska.

Dental hygienists cannot be self employed therefore, we cannot hold all liability.

Dental hygienists can purchase liability, \$77/yr with 2million per incident, 4 million aggregate.

Dentists still have discretion over whether a hygienist delivers local anesthesia under general supervision-not in the office, do not schedule a procedure or person that requires LA.

With a collaborative agreement, if a dentist isn't comfortable with taking on the liability of whatever procedure then don't include it in the agreement.

[3:57:09 PM](#)

REPRESENTATIVE STOLTZE pointed out that these witnesses have offered supportive testimony, representing the various regions of the state.

[3:57:46 PM](#)

DAVID LOGAN, Doctor of Dentistry, Chairman, Alaska Dental Society (ADS), stated opposition to HB 136, paraphrasing from a written statement, which read as follows [original punctuation provided]:

If the goal is to increase services in underserved areas HB 136, as currently written, will at best marginally increase those services. The ADS feels, with some modifications, HB136 could be enhanced to meet those goals, however. I will address one part of the bill; also, that we feel should be removed for public safety.

We support the addition of restorative functions but feel all qualified auxiliaries (both hygienists and assistants) should be allowed to perform those functions.

We would encourage allowing the board set standards under regulation but do not object to requiring WREB [Western Regional Examining Board] restorative endorsement or equivalent.

18 other states allow all auxiliaries to perform restorative functions; only one state limits this to hygienists.

We support coronal polishing and scaling by all auxiliaries under direct or indirect supervision. This is not currently a provision of HB136 and would greatly improve the delivery of dental services in currently underserved areas.

We believe local anesthesia should remain under direct or indirect supervision

A provision of the medical and dental professions is "Primum non nocere" - first do no harm - while the goal of increased delivery is laudable we are bound to follow this dictum.

The level of training of hygienists is less than dentists for delivery of anesthetic, recognition of medical complications and delivery of emergency services.

If the goal is to increase usage in underserved locations a caveat is these areas will more often than not be in remote locations and the farthest from medical help.

To put it bluntly the procedures we are recommending be included in this bill are generally safe and even if performed incorrectly are easily remedied. Local anesthesia, if performed incorrectly, is one of the few ways in dentistry you can kill a patient.

Regarding the collaborative agreement

We do not feel development of a collaborative agreement, and increasing a level of bureaucracy, is necessary

We feel all qualified auxiliaries, meeting criteria set by the board, should be able to provide the

following in underserved areas under the general supervision of a dentist

Coronal scaling and polishing

Placement of temporary restorations

Collection of records for diagnosing and treatment planning the patient

Application of topical preventative agents

These are safe procedures that do not require a dentist to render a diagnosis. The remaining provisions, removal of overhangs, root planning (non surgical therapy), use of chemotherapeutic agents beyond topical applications should be done only after a dentist has accessed, diagnosed and treatment planned the patient.

Having care delivered under general supervision as opposed to the collaborative agreement will help insure continuation of patient care and treatment of the patient's greatest needs.

What separates a dentist from the remainder of the dental team is the ability to diagnosis and treatment plan a patient. Dental procedures can be taught in a piece meal fashion, the ability to diagnosis and treatment plan, however, requires the ability to understand the entire oral structure and how it interrelates with the rest of the body. This is not so easily taught and one of the reasons dental school remains a difficult venture taking twice as long as hygiene school and the same length of time as medical school.

The procedures we are recommending be included in HB136 should be in place for all qualified auxiliaries. This will allow increased delivery of dental services in underserved areas. The changes we are recommending, however, are changes that are safe for the public, procedures that are reversible in nature and will not harm the patients. For that reason we would encourage adopting those changes but removing the proposed change to allow local anesthesia under general supervision.

4:03:08 PM

CHAIR WILSON inquired if the intent is to allow the dental assistant to perform the same procedures as the hygienist.

DR. LOGAN explained that the line of demarcation is whether a procedure requires work "above" or "below" the gum line. Work above the gum line is considered a general skill in the dental field, and easily taught. However, to perform work below the gum line requires specialized training. In response to a question he stated that assistants are taught below gum line procedures by the dentist.

4:04:03 PM

REPRESENTATIVE FAIRCLOUGH referring to previous testimony of the safe practice of anesthetic delivery by hygienists and asked if he is aware of any case where a hygienist has caused harm.

DR. LOGAN said, "I do not specifically know of a case. No." He offered that there are national statistics that report adverse anesthetic delivery by both doctors and hygienists.

REPRESENTATIVE FAIRCLOUGH inquired whose business license would "be on the line if there was a mishap" involving administration of an anesthetic, given the collaborative agreement requirement.

DR. LOGAN interpreted the legislation to indicate joint responsibility, and liability. He clarified that this would be borne by the professional licenses of the dentist and the hygienist.

4:06:07 PM

REPRESENTATIVE FAIRCLOUGH predicted that the subject would become mute, if the bill requires a collaborative agreement between a hygienist and dentist, and the dentists maintain opposition.

DR. LOGAN stated hope that the legislature would alter the aspect of the bill that requires a collaborative agreement. He declined to speculate on whether dentists would choose to enter into a collaborative agreement.

REPRESENTATIVE FAIRCLOUGH pointed out that the current language would provide the dentist a safeguard to evaluate a hygienists'

abilities, and make a knowledgeable decision whether to enter into a collaborative oversight agreement, on an individual, case by case, basis. She expressed surprise that dentists would oppose such legislation.

DR. LOGAN stressed that he would not personally enter into a collaborative agreement with anyone whom he does not directly employ.

[4:08:14 PM](#)

REPRESENTATIVE CISSNA summarized the situation of dental care in the Bush. Comparing it to the level, and availability, of general health care provided by public health nurses, she said that dental care has been non-existent. It has been reported that patients have required Medivac service, due to dental neglect. She opined that, although dentists may be opposed to this bill, a moral responsibility exists for the sharing of knowledge, and professional assistance. She urged that perhaps the dental association could offer suggestions to solve this "embarrassment to the state."

[4:11:07 PM](#)

REPRESENTATIVE ROSES stated support for HB 136, indicating his agreement with Representative Fairclough's point that, as it stands, the language allows a dentist the flexibility to enter into an agreement or not. Further, he stated accord with Representative Cissna's concern for providing dental care to the Bush communities.

[4:12:44 PM](#)

REPRESENTATIVE FAIRCLOUGH moved to report HB 136 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 136 was reported out of the House Health, Education and Social Services Standing Committee.

#### HB 159-STILLBIRTH CERTIFICATE

CHAIR WILSON announced that the final order of business would be HOUSE BILL NO. 159, "An Act relating to the issuance of a certificate of birth resulting in a stillbirth."

[4:13:44 PM](#)

REPRESENTATIVE CARL GATTO, Alaska State Legislature, presented HB 159, as prime sponsor, stating that there are national organizations, which have taken up the matter of acknowledging stillbirths. These organizations have formed to address the situation referred to as Sudden Antenatal Death Syndrome (SADS). Directing attention to the committee packet, he read from "An Open Letter to Members of the Alaska Legislature," from the National Stillbirth Society, Inc. [not dated; original punctuation provided]:

The issuance of a Certificate of Birth Resulting in Stillbirth does not impact in any way a woman's right to choose to terminate her pregnancy. Such certificates are issued only for deliveries following naturally occurring fetal deaths. Women who choose an elective termination of their pregnancy would neither be required to obtain a Certificate of Birth Resulting in Stillbirth, nor would they even be eligible for the reason elective terminations don't fall within the definition of a "stillbirth".

[4:15:49 PM](#)

REPRESENTATIVE GATTO offered that the society was established in 2001, and the founder is available to answer the committee's questions. Recalling his experience of assisting with births, he said that a live birth is "a joy," that is equally balanced by the "shear devastation" of a stillbirth. This legislation asks that the parent's be provided with a certificate to acknowledge the birth, even though it was a stillbirth, he said, and noted that this action has no connection to Roe v. Wade.

[4:18:07 PM](#)

REPRESENTATIVE ROSES established that the request is for the issuance of a "certificate of birth", not "live" birth, and suggested that the issuance of a Permanent Fund Dividend (PFD) check, could present a problem. Also, an estate may stand to be inherited by the first born grandchild. If the grandchild has a certificate of birth, but does not exist, the intent of the inheritance may be altered. Offering support for the bill, he asked whether these unintended consequences need to be addressed.

[4:20:25 PM](#)

SANDRA WILSON, Staff to Representative Carl Gatto, Alaska State Legislature clarified that HB 159 would allow vital statistics to issue a certificate stipulating a birth that resulted in a stillbirth. Additionally, it would state that the child not be counted, statistically, as a live birth; effectively disallowing them to qualification for a PFD. She opined that the question of inheritance could be addressed similarly.

[4:21:24 PM](#)

REPRESENTATIVE ROSES understanding how the certificate would read, retracted his concerns.

[4:22:26 PM](#)

REPRESENTATIVE FAIRCLOUGH maintained the concern that an issued certificate represents a quantitative factor, entered into the statistical birth records, and suggested that unintended consequences may result.

[4:23:01 PM](#)

PHILLIP MITCHELL, Section Chief, Bureau of Vital Statistics (BVS), Department of Health & Social Services (DHSS), stated support for HB 159, and offered suggestions for amendment. He described the current practice of issuing a death certificate when a child is stillborn, following a gestation of 20 weeks or more. Current statutes provide for the issuance of a live certificate of birth, or a death certificate only; however, he reported the parents often request an official acknowledgement of the birth. A statutory provision to issue a certificate of birth would help the parents deal with their loss, he opined. The information needed to provided a certificate of birth, is already available to the BVS, contained in the fetal death certificate. He directed the committee's attention to a copy of the vital statistics form titled "Certificate of Live Birth." This form is used to generate a certified copy of birth, issued to the parents. Directing attention to the bureau form titled "Certificate of Fetal Death," he described it as a combination birth/death certificate. He recommended that an additional vital statistics form would constitute a duplication of effort, but that a stillbirth certificate could be issued based on the information gathered on the birth/death certificate. The ability to issue a stillbirth certificate, he said, is merely a matter of authorization.

[4:26:28 PM](#)

CHAIR WILSON acknowledged the trauma that a parent experiences with the birth of a still child, and stressed that an official certificate would be a supportive gesture.

MR. MITCHELL, reiterated that a stillbirth certificate is currently possible, pending legislative authorization. He pointed out that the participating states issue a commemorative certificate, similar to Chair Wilson's description. To a member's question, he restated that creating, and maintaining files for, a document titled "Certificate of Birth Resulting in Stillbirth," would be a duplication of effort.

REPRESENTATIVE FAIRCLOUGH stated, "I support a separate piece of paper that is indicating a life."

[4:31:09 PM](#)

MR. MITCHELL relayed that subsection (g) refers to the issuance of a "delayed" certificate. He suggested that this section be reworded to allow a parent to request the BVS to issue a certificate of stillbirth, without regard to whether the fetal death occurred on, before, or after the effective date of this act. Subsection (g) is intended to allow parents to retroactively request a stillbirth certificate, and an amendment to this subsection would provide BVS clearer authority to issue a stillbirth certificate, regardless of when the event occurred. Responding to a question, he stated that about 50 stillbirths occur each year in Alaska.

[4:32:21 PM](#)

REPRESENTATIVE FAIRCLOUGH offered support for an amendment to allow retroactive certificates, and asked that wording be provided, for a motion.

[4:33:48 PM](#)

REPRESENTATIVE GARDNER maintained a concern for the legal issues raised previously by Representative Roses.

CHAIR WILSON speculated that legal concerns may exist.

[4:34:30 PM](#)

REPRESENTATIVE ROSES asked if statute requires the issuance of a death certificate.

MR. MITCHELL answered that a death certificate is required for anyone who dies in the state.

REPRESENTATIVE ROSES inquired if a birth certificate is required, regardless of whether "a parent requests one."

MR. MITCHELL responded that the bureau is required to create a birth record; however, a copy is only issued on request.

REPRESENTATIVE ROSES compared the information requested on the two certificates currently issued by the BVS: Certificate of Fetal Death, and Certificate of Live Birth.

MR. MITCHELL noted that the Certificate of Fetal Death requests a "date of delivery" vs. a "date of birth" because currently a stillborn infant is not recognized as being born live. A stillbirth certificate would also reflect a date of delivery.

REPRESENTATIVE ROSES pursued a discussion of renaming the Certificate of Fetal Death, to include "or Stillbirth," and including appropriate information categories.

[4:38:31 PM](#)

REPRESENTATIVE GATTO stressed that the purpose of HB 159 is not to do clerical and accounting work, or to modify the current fetal death certificate. A parent already has access to these records. The intent here is to provide a mother/parents with something that they don't have, a tangible acknowledgment. He opined that the legal issues can be addressed to facilitate the issuance of a certificate of stillbirth.

REPRESENTATIVE FAIRCLOUGH agreed that a grieving family wants a recognition of the birth of a child, that at some point was viable.

[4:40:27 PM](#)

DARRELL LOGULLO, Volunteer, Mother's in Sympathy & Support (MISS) Foundation, stated support for HB 159, paraphrasing from a prepared statement, which read as follows [original punctuation provided]:

Please create Alaska's "Certificate of Birth Resulting In Stillbirth." These six words are of vital importance. Here is why:

'Stillbirth protocols', and the medical courtesies given to mothers throughout Alaskan hospitals (or lack thereof) dictate the parents may be given mementos such as the baby's "crib-card," the wrist or ankle bands, or the handprints associated with the birth of their baby. Yet parents of stillborn babies check out of the hospital with empty arms, broken hearts and sent home with deep wounds. It's easy to understand that any "tangible item" from these traumatic events could be considered essential in the bereavement process.

Under this bill, parents who lose a child after 20 weeks of gestation would be issued a "Certificate of Birth Resulting in Stillbirth."

As of this letter, the State of South Dakota has been the 15<sup>th</sup> state in the United States to adopt such meaningful legislation. Please support the specific wording, "Certificate of Birth Resulting in Stillbirth." If your colleagues have concerns over pro-choice issues, consider following Florida's law (14<sup>th</sup> state), and adding clear language, "This Certificate Is Not Proof of Live Birth," to squash those concerns.

Please do not allow the wording to be changed, or any amendments offered to dilute or diminish the issue of "birth." Birth is a process: Life or death is an outcome. To no fault of the parents, their child was born dead. Your great state can deem it very appropriate to acknowledge all of Alaska's stillborn children. The fact is: they lived, they died, and that even in their deaths, all of these children very much matter.

[4:49:12 PM](#)

REPRESENTATIVE FAIRCLOUGH asked how the states, which have adopted this action, have addressed the legal aspects.

MR. LOGULLO stated that primarily states have made this an optional document, to assist families in the bereavement process, not a political mandate. Inheritance, and transference, concerns have been addressed by including a disclaimer on the document stating that "this is not proof of

live birth." Additionally, he stressed the need to have a retroactive provision, to provide the opportunity for "healing, hope, and help" to every mother who has previously birthed a stillborn.

[4:52:17 PM](#)

RICHARD OLSEN, Founder, National Stillbirth Association, stated support for HB 159, and underscored that this is not a political question, but rather a recognition that an event occurred. Currently, if twins are birthed, one alive and one still, the stillborn child is not certified. He relayed a story of the mother who formed the MISS foundation, and the event that prompted her to action. Prior to the passage of these bills, mothers have not been able to receive acknowledgment that a child was born, albeit still. He reported that 80 babies are born dead, on an average day in America; the mother's have done nothing wrong, and the cause of death is unknown. It is not a life style issue, he stressed, and to get past the "unknown" cause of death, the acknowledgment, and certification, of the birth is helpful. The numbers of sudden infant deaths, or crib deaths, are fewer than stillborn, but widely discussed and acknowledged. He explained, that when his child was stillborn, and there were no activist groups available, he founded the National Stillbirth Association. He estimated that over one million women in the United States have had to deal with a stillbirth.

[4:58:32 PM](#)

CHAIR WILSON closed public testimony.

[4:58:50 PM](#)

CHAIR WILSON suggested that the birth certificate could have a section added to indicate stillbirth, and stressed the need for the parents to have a certificate made available to acknowledge the birth.

REPRESENTATIVE GATTO directed attention to the committee packet and the document examples: "Certificate of Birth Resulting in Stillbirth," Indiana; and "Certificate of Stillbirth," Iowa.

[5:02:50 PM](#)

REPRESENTATIVE ROSES retracted his previous concerns, and stated that based on testimony heard, and the inclusion on the

certificate that it does not prove live birth, pledged support for the bill.

[5:04:04 PM](#)

REPRESENTATIVE FAIRCLOUGH stated that HB 159 directs the administration to word the certificate appropriately, and referring to page 2, line 5, [subsection (d)] she read: "The department shall prescribe the form and content of a certificate of birth resulting in stillbirth ..." Further, she offered Amendment 1, new item [subsection (j)] to read:

Any parent may request that the Bureau prepare and issue a certificate of birth resulting in stillbirth without regard to whether the fetal death occurred on, or before, or after the effective date of this act.

There being no objection, Amendment 1 was adopted.

[5:05:33 PM](#)

REPRESENTATIVE GARDNER requested assurance that the unintended consequences regarding the question of inheritance would receive legal attention.

[5:05:40 PM](#)

CHAIR WILSON announced that HB 159 would be held pending receipt of a committee substitute.

#### **ADJOURNMENT**

There being no further business before the committee, the House Health, Education and Social Services Standing Committee meeting was adjourned at 5:05 p.m.