

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

March 20, 2007

3:02 p.m.

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

All members present

**OTHER LEGISLATORS PRESENT**

Senator Johnny Ellis

**COMMITTEE CALENDAR**

HOUSE BILL NO. 135

"An Act establishing a higher education savings program for eligible children who were placed in out-of-home care by the state; and providing for confidentiality of identifying information of a beneficiary under the program."

- MOVED CSHB 135(HES) OUT OF COMMITTEE

HOUSE BILL NO. 178

"An Act relating to the Governor's Committee on Employment of People with Disabilities; and providing for an effective date."

- MOVED CSHB 178(HES) OUT OF COMMITTEE

HOUSE BILL NO. 113

"An Act relating to the prescription and use of pharmaceutical agents, including controlled substances, by optometrists."

- HEARD AND HELD

HOUSE BILL NO. 173

"An Act relating to court approval of involuntary administration of psychotropic medication; and providing for an effective date."

- BILL HEARING CANCELED

**PREVIOUS COMMITTEE ACTION**

BILL: HB 135

SHORT TITLE: TUITION FOR CERTAIN CHILDREN

SPONSOR(S): REPRESENTATIVE(S) STOLTZE

02/14/07 (H) READ THE FIRST TIME - REFERRALS  
02/14/07 (H) HES, FIN  
03/20/07 (H) HES AT 3:00 PM CAPITOL 106

BILL: HB 178

SHORT TITLE: EMPLOYM'T OF PEOPLE W/ DISABILITIES COM.

SPONSOR(S): HEALTH, EDUCATION & SOCIAL SERVICES

03/05/07 (H) READ THE FIRST TIME - REFERRALS  
03/05/07 (H) HES, FIN  
03/20/07 (H) HES AT 3:00 PM CAPITOL 106

BILL: HB 113

SHORT TITLE: OPTOMETRISTS' USE OF PHARMACEUTICALS

SPONSOR(S): REPRESENTATIVE(S) SAMUELS

01/30/07 (H) READ THE FIRST TIME - REFERRALS  
01/30/07 (H) HES, L&C  
03/20/07 (H) HES AT 3:00 PM CAPITOL 106

**WITNESS REGISTER**

ROBERT FOOTE-JONES, Staff  
to Representative Bill Stoltze  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Presented HB 135 on behalf of  
Representative Bill Stoltze, sponsor.

JIM LYNCH, Associate Vice President  
Statewide Administration  
University of Alaska  
Fairbanks, Alaska

POSITION STATEMENT: Testified during the hearing on HB 135.

MICHAEL CURRAN, Program Coordinator  
Office of Faith-Based and Community Initiatives (FBCI)  
Office of the Commissioner  
Department of Health & Social Services (DHSS)  
Juneau, Alaska  
POSITION STATEMENT: Testified in support of HB 135.

CHIP WAGONER, Executive Director  
Alaska Conference of Catholic Bishops  
Juneau, Alaska  
POSITION STATEMENT: Testified in support of HB 135.

MIKE LESMANN, Community Relations Manager  
Office of Children's Services (OCS)  
Department of Health and Social Services (DHSS)  
Juneau, Alaska  
POSITION STATEMENT: Testified during the hearing of HB 135.

ROBERT MYERS, Intern  
to Representative Peggy Wilson  
Alaska State Legislature  
Juneau, Alaska  
POSITION STATEMENT: Presented HB 178, on behalf of  
Representative Peggy Wilson, sponsor.

GALE SINNOTT, Director  
Statewide Programs  
Division of Vocational Rehabilitation  
Department of Labor & Workforce Development (DLWD)  
Juneau, Alaska  
POSITION STATEMENT: Testified during the hearing on HB 178.

PAULA SCAVERA, Special Assistant  
Office of the Commissioner  
Department of Labor & Workforce Development  
Juneau, Alaska  
POSITION STATEMENT: Testified during the hearing on HB 178

SYDNEY MORGAN, Staff  
to Representative Ralph Samuels  
Alaska State Legislature  
Juneau, Alaska  
POSITION STATEMENT: Presented the Committee Substitute for HB  
113 on behalf of Representative Ralph Samuels, prime sponsor.

CINDY BRADFORD, Doctor of Ophthalmology  
American Academy of Ophthalmology;

Assistant Professor,  
Dean A. McGee Eye Institute  
Department of Ophthalmology  
University of Oklahoma Health Center  
University of Oklahoma  
Oklahoma City, Oklahoma  
POSITION STATEMENT: Testified in opposition to HB 113.

LESLEY L. WALLS, Doctor of Optometry;  
Doctor of Medicine;  
President  
Southern California College of Optometry  
Fullerton, California  
POSITION STATEMENT: Testified in support of HB 113.

MICHAEL BENNETT, Doctor of Optometry;  
President  
Alaska Optometric Association  
Juneau, Alaska  
POSITION STATEMENT: Testified in support of HB 113.

BOB LOESCHER  
Juneau, Alaska  
POSITION STATEMENT: Testified in opposition to HB 113.

JILL GEERING MATHESON, Doctor of Optometry;  
Chair  
Alaska Board of Examiners in Optometry  
Juneau, Alaska  
POSITION STATEMENT: Speaking as an individual, testified in support of HB 113.

#### **ACTION NARRATIVE**

**CHAIR PEGGY WILSON** called the House Health, Education and Social Services Standing Committee meeting to order at [3:02:56 PM](#). Representatives Wilson, Seaton, Roses, and Fairclough were present at the call to order. Representatives Neuman, Cissna, and Gardner arrived as the meeting was in progress.

#### HB 135-TUITION FOR CERTAIN CHILDREN

[3:03:08 PM](#)

CHAIR WILSON announced that the first order of business would be HOUSE BILL NO. 135 "An Act establishing a higher education savings program for eligible children who were placed in out-of-

home care by the state; and providing for confidentiality of identifying information of a beneficiary under the program."

3:05:00 PM

ROBERT FOOTE-JONES, Staff to Representative Bill Stoltze, Alaska State Legislature, introduced HB 135 on behalf of the sponsor. Mr. Foote-Jones informed the committee that HB 135 is a companion bill to SB 76, sponsored by Senator Johnny Ellis. The bill will assist children in foster care to attain higher education through the ASPIRE program, which is an acronym for Alaska's youth Succeed when People Invest Resources in Education. This legislation will allow churches, community organizations, nonprofits, businesses, and individuals to establish education savings accounts for children in foster care. The bill authorizes the Office of Children's Services (OCS), Department of Health & Social Services (DHSS), to release necessary information to the Alaska Office of Faith-Based and Community Initiatives (FBCI) in order to open a state sponsored University of Alaska (UA) Section 529, Internal Revenue Service college saving plan in the name of the foster child.

MR. FOOTE-JONES explained that the funds can be used for educational or vocational training, in addition to tuition. The beneficiaries of this program will be chosen by OCS for their age and the length of time, over a minimum of two years, that they have been in foster care. Mr. Foote-Jones explained that a foster child is "aged out" of the state's custody at the age of 18, without further support from the state. He pointed out that children in foster care most likely have no chance to further their education.

3:07:42 PM

REPRESENTATIVE CISSNA asked whether the sponsor has been in contact with the Annie E. Casey Foundation or the Alaska Court System, which is working on a related program.

MR. FOOTE-JONES replied no.

3:08:42 PM

REPRESENTATIVE GARDNER stated that this could be a very important program. Reaching the age of 18 does not mean that a child is ready for independence. She asked whether the FBCI or the OCS has issued an opinion on this bill.

MR. FOOTE-JONES replied that the FBCI is represented at the hearing.

[3:09:41 PM](#)

REPRESENTATIVE CISSNA asked whether the savings account could be used at an institution of higher learning other than the University of Alaska.

MR. FOOTE-JONES answered that this fund is available for any educational purpose until the beneficiary reaches the age of 30.

[3:10:37 PM](#)

JIM LYNCH, Associate Vice President, Statewide Administration, University of Alaska (UA), stated his support for HB 135. He noted that the acronym for the program is ASPIRE, and it holds a similar goal as the general UA college savings program for Alaska youth and their families. Mr. Lynch expressed his hope that all Alaska students expect to continue to post secondary education after graduation from high school. He relayed that 50 percent of the children in foster care are from middle income families and many of these children come from families with lower incomes, and where the parents may not have been to college. It allows the student, from an early age, to plan to go to college. Mr. Lynch concluded by pointing out that if the funds are not utilized by one student, the account will be re-directed to another foster child.

[3:13:36 PM](#)

MICHAEL CURRAN, Program Coordinator, Office of Faith-Based and Community Initiatives (FBCI), Office of the Commissioner, Department of Health & Social Services (DHSS), stated his support for HB 135, paraphrasing from a prepared statement, which read as follows [original punctuation provided]:

As a worker for social justice and community building, an ordained priest, and former teacher for over twenty years in the rural, remote, and small communities of Alaska, I am very aware of the challenges that face our youth in out-of-home care.

Prior to my position with the Alaska Office of Faith-Based and Community Initiatives I was an Associate Coordinator to the Program Director for the State of Alaska, Head Start program with the Department of

Education and Early Development. A great deal of my time was spent doing research concerning the transition of young foster children's care in foster homes and out-of-home care to their lives of self-sufficiency. As a teacher, there were many students in my classrooms that were living in foster care and were about to, or had transitioned to, independent living outside their small communities. In my life as a parish priest I had opportunities in private, congregational and community ministries to pastor families who cared for foster children and also to the foster children who "aged-out" of foster care.

My experiences and my research revealed that those youth who did age out of foster care versus their counterparts who were not a part of the foster care system, all faced higher risks and the actual experiences of homelessness, unemployment, financial hardships, diminished physical health, criminal behaviors, psycho-social disorders, suicide and lower achievements in education.

Most of these precious children (young adults) want to pursue (ASPIRE to) education beyond high school but the financial roadblocks are too great for them to even begin, let alone complete a higher educational degree. Many studies have shown that nearly 75 percent of these young adults must abandon the idea of pursuing a degree or complete it.

This proposed House Bill, HB 135, and its program would effectively address this challenge that these young people face. It is a program that would bring the guiding principal of real community together. It would give the ability and opportunity for individuals, faith-based organizations, businesses, civic groups and other organizations to invest in our most precious commodity, the youth of our State. They are our future. This proposal will enable them to fulfill their dreams and live productive lives. These youth are our future investment who will in turn, fulfill the visions of our great State.

[3:18:06 PM](#)

REPRESENTATIVE SEATON asked how much of the total budget of \$41,000 will be targeted for television advertising.

MR. CURRAN responded that the administration of the program will take 25 percent of the time of the existing program coordinator. He stated that \$20 per year is estimated for contractual funds to print brochures and support a promotional effort.

REPRESENTATIVE SEATON observed that the amount should be \$20,000.

MR. CURRAN agreed that there must be a misprint.

REPRESENTATIVE SEATON again asked whether the television advertising is included.

MR. CURRAN said that he did not know.

[3:19:48 PM](#)

CHAIR WILSON pointed out that the fiscal note indicates \$20,000 per year for contractual funds.

[3:20:13 PM](#)

CHIP WAGONER, Executive Director, Alaska Conference of Catholic Bishops, stated his organization's support for HB 135. He informed the committee that, as an advocate for many children's services, he has testified in support of many state funded programs for the poor. Mr. Wagoner acknowledged that the government can not provide all of the services to the poor that are needed and that this bill will provide an opportunity for individuals, under the obligation of their faith, to support the poor. It is very important, Mr. Wagoner added, to market this program so individuals are aware of the opportunity to participate in supporting educational goals for foster children.

[3:22:25 PM](#)

MIKE LESMANN, Community Relations Manager, Office of Children's Services (OCS), Department of Health & Social Services (DHSS), stated support for HB 135 on behalf of the department, paraphrasing from a prepared statement, which read as follows [original punctuation provided]:

The department supports HB 135 and would like to thank the sponsor for introducing this idea to members of the House. We have worked closely with Senator Ellis and his staff on the language of the Senate's version

of this bill. Children that become wards of the State are sometimes not financially prepared to enroll in post-secondary educational opportunities. The ASPIRE program would create the potential for their community to assist them in that endeavor. If you believe that the young are our future, this is important legislation to all Alaskans.

[3:23:32 PM](#)

CHAIR WILSON asked whether a foster child's Permanent Fund Dividend (PFD) will be deposited to the savings account.

MR. LESMANN replied that children in state custody have their PFD directed to a trust fund each year. When the child is emancipated or released to their family, guardian, or adoptive family, the PFD is released to them. He opined that the PFD will not be deposited to the college savings account.

[3:24:45 PM](#)

REPRESENTATIVE NEUMAN referred to the fiscal note and asked whether the estimated cost is just to keep a central office open.

MR. LESMANN opined that one FBCI staff person will be administering the program and the \$20,000 will be dedicated to marketing.

REPRESENTATIVE NEUMAN asked how many young adults will be affected by this bill.

MR. LESMANN answered that approximately 2,100 children are placed in state custody outside of their homes. Of those children, he said, 96 will attain the age of 18 as of 08/01/07.

[3:27:05 PM](#)

CHAIR WILSON noted that this would be approximately 100 per year.

MR. LESMANN affirmed that the number of children in state custody changes daily, but it could be around 100 per year who age-out of the system.

[3:27:30 PM](#)

REPRESENTATIVE GARDNER asked whether a provision will be made to allow the beneficiary of the program to meet his/her sponsor.

MR. LESMANN answered that the bill directs FBCI, OCS, and the Division of Juvenile Justice (DJJ), to administer the program. He opined that this idea has been discussed and will require the agreement of the donor.

[3:29:16 PM](#)

REPRESENTATIVE SEATON asked whether these savings accounts will be held for children who are adopted, and whether the adoptive parents will have access to the savings.

MR. LYNCH responded that a determination on this issue would be made by the director of the department at the time. He advised that the state is the owner of the account.

CHAIR WILSON asked whether the details are still fluid because the regulations have not been written.

MR. LYNCH replied that the state will be the owner of the account and UA will follow the directions, provided by DHSS, regarding the distribution of the funds.

[3:31:41 PM](#)

MR. LESMANN added that two possibilities have been envisioned. One is the possibility that the donor will know the recipient. The donor could be a neighbor of the foster parent. Thus, the donor may specify a certain child as the recipient. Another possibility is of a child who is aging out of the state system, who has been achieving academically, and who does not have a sponsor. This child could be identified by the state and become a recipient. He opined that there is not an age or time specified for the release of the savings account.

[3:33:49 PM](#)

REPRESENTATIVE SEATON called the committee's attention to page 2, lines 19 and 20, of the bill and said that there is no indication that the account is only to be used for educational purposes. He suggested that, as this bill goes forward, it should be made clear that these funds can only be used for education, and the donor should be confident of that purpose.

[3:35:38 PM](#)

CHAIR WILSON asked whether a group of people could donate to a child, even if the program was not already established.

MR. LESMANN told the committee that community members can specify a child as a recipient and donations can be directed to that child. However, information about the child, or donors, can not be disclosed unless HB 135 passes and amends the existing statute.

[3:37:03 PM](#)

REPRESENTATIVE CISSNA commented that it is important that educational opportunities are made available to children in foster care. She then asked what safeguards have been put in place to ensure that foster children aging out of the system have the educational "pieces" in place to benefit from this type of program. She advised that children in state custody need extra oversight due to unintended consequences that can be brought to bear by foster parents with ill will. Representative Cissna said that, in her experience, foster children are known targets and are vulnerable to abuse by adults. She asked whether the department will be able protect them, and direct the savings accounts to them, simultaneously.

[3:40:39 PM](#)

MR. LESMANN said that he could not answer that question.

REPRESENTATIVE CISSNA stated that her confidence in this bill would be raised if the sponsors consult with the Annie E. Casey Foundation and the judicial system.

[3:41:40 PM](#)

CHAIR WILSON observed that the money does not go into the hand of a recipient or a foster parent, but directly to the educational institution.

[3:42:05 PM](#)

REPRESENTATIVE ROSES added that there is also the question of what happens to the money if the recipient does not attend the school. He then called the committee's attention to page 3, line 1 and 2, that defines "out-of-home care" as care at the residence or facility at which a child is placed by the state.

Representative Roses clarified that this definition does not include every child attending the residential program at Mt. Edgecumbe High School.

MR. LESMANN said, "That is correct."

[3:43:20 PM](#)

REPRESENTATIVE GARDNER added that a child is not placed at Mt. Edgecumbe, but is accepted or enrolled. She went on to say that marketing the needs of a child may result in many donations for that child. In addition, the needs of a child in a small community may be well known to community members. In those cases, a child may be over sponsored, and others may be eligible but not have sponsors. The distribution of donations should be fair under any circumstances.

MR. LESMANN acknowledged that the details of administering the program are not fully established. However, if an individual has an account which is already well endowed, the department will need to inform the donor.

[3:45:45 PM](#)

REPRESENTATIVE FAIRCLOUGH asked whether there are contribution incentives for the donors.

MR. LYNCH replied that if a contribution is properly made it would qualify for a federal tax deduction.

[3:46:40 PM](#)

REPRESENTATIVE CISSNA observed that many foster children are placed in the Lower 48 with relatives. She asked whether a foster child housed outside of Alaska is considered a resident.

MR. LESMANN expressed his understanding that a ward of the state of Alaska remains a resident, even when placed outside of the state.

[3:47:53 PM](#)

CHAIR WILSON closed public testimony.

[3:48:06 PM](#)

REPRESENTATIVE SEATON asked that the sponsor ensure that the donations can only be used for educational purposes.

[The sponsor indicated his agreement from the gallery.]

REPRESENTATIVE CISSNA asked for confirmation that the sponsor will contact the Annie E. Casey Foundation.

[The sponsor indicated his agreement from the gallery.]

[3:50:17 PM](#)

REPRESENTATIVE FAIRCLOUGH moved to adopt CSHB 135, 25-LS0592\C, as the working document.

[Although not formally stated, Version C was before the committee.]

[3:50:35 PM](#)

REPRESENTATIVE GARDNER moved to report CSHB 135, Version C, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 135(HES) was reported out of the House Health, Education and Social Services Standing Committee.

HB 178-EMPLOYM'T OF PEOPLE W/ DISABILITIES COM.

[3:51:29 PM](#)

CHAIR WILSON announced that the next order of business would be HOUSE BILL NO. 178, "An Act relating to the Governor's Committee on Employment of People with Disabilities; and providing for an effective date."

[3:51:32 PM](#)

ROBERT MYERS, Intern to Representative Peggy Wilson, presented HB 178, on behalf of the sponsor, paraphrasing from a prepared statement, which read as follows [original punctuation provided]:

We have brought HB 178 before you as a request from the Governor's Council on Employment of People with Disabilities. Congress has changed the requirements for these committees, and we need to change our statute to comply in order to continue to receive

federal money for the program. Their budget is 70 percent federal, so this is important to them.

Sections 1 and 5 are for a name change. They add "and Rehabilitation" to the title of the committee.

Sections 2 through 4 gives the changes required to bring us into compliance with federal law. These provisions include allowing for more people on the council, the selection of committee members as per federal statute, an elected rather than appointed chair, and new requirements for meetings.

Section 6 gives the bill an immediate effective date.

[3:53:15 PM](#)

REPRESENTATIVE SEATON called the committee's attention to page 2, line 19 and 20, and asked for clarification of the number of meetings to be attended in person.

CHAIR WILSON responded that one meeting per year will include all members in person, and the other three meetings will be teleconferenced.

MR. MYERS affirmed Representative Wilson's interpretation.

[3:54:27 PM](#)

REPRESENTATIVE SEATON asked whether there is an enforceable penalty for non-compliance of attendance requirements by members.

[3:54:56 PM](#)

REPRESENTATIVE GARDNER acknowledged that attendance for any committee is difficult.

[3:55:45 PM](#)

GALE SINNOTT, Director, Statewide Programs, Division of Vocational Rehabilitation, Department of Labor & Workforce Development, stated that members are allowed to meet telephonically three times per year, and meet once face-to-face.

[3:56:27 PM](#)

REPRESENTATIVE SEATON offered [Conceptual Amendment 1] for page 2, line 20, and strike the words "all members attend the" and substitute, after shall, "be a meeting in person."

CHAIR WILSON suggested inserting "shall be a group meeting."

REPRESENTATIVE SEATON noted that the drafters can correct a conceptual amendment.

[3:57:46 PM](#)

REPRESENTATIVE FAIRCLOUGH expressed her opinion that there is a contradiction. The language could be interpreted to mean that each member must attend at least one meeting in person.

MS. SINNOTT confirmed that the members meet four times a year, in fact, it does not specify in federal regulations that members meet telephonically or face-to-face. She suggested that the entire sentence be deleted.

CHAIR WILSON stated that if the federal guidelines require one face-to-face meeting per year this language should stay for funding purposes.

[3:59:07 PM](#)

PAULA SCAVERA, Special Assistant, Office of the Commissioner, Department of Labor & Workforce Development, stated that Conceptual Amendment 1 was the original language provided to the drafters and it was removed. Ms. Scavera said that she informed the drafters that three meetings could be telephonic, but one meeting per year should be face-to-face and with a quorum.

[4:00:04 PM](#)

CHAIR WILSON objected to Conceptual Amendment 1.

[4:00:19 PM](#)

REPRESENTATIVE FAIRCLOUGH remarked:

... there are exceptions where people will not be able to be at the meeting and so they may designate a meeting that is, this is the in person meeting, and be able to offer travel arrangements but the agreement between the parties that are serving on the committee is that if they don't make it by chance, they would

show up to a different meeting and be flown in to a different meeting, if necessary, to meet the one per ... year requirement of face-to-face.

MS. SCAVERA agreed. She then said that this language is in the meeting section of the bill and not in the composition, or selection of members, section.

REPRESENTATIVE FAIRCLOUGH remarked:

In, Representative Seaton, that was his specific point, on trying to drive it differently and so we interpreted that everyone had to be there. And then his follow-up question was, "What's the consequence for not attending?" And that's why I actually pulled the statute and I don't really see a consequence inside of [AS] 23.15.

[4:01:51 PM](#)

MS. SINNOTT said that there is no consequence in the bill. She informed the members that each governor's committee has a set of bylaws for that purpose.

[4:02:16 PM](#)

REPRESENTATIVE ROSES offered an amendment to Conceptual Amendment 1, which read:

Members may participate in quarterly meetings telephonically, except that one meeting each year shall be in person.

CHAIR WILSON objected for discussion purposes. She then said:

My interpretation is that there has to be four meetings a year and the only qualification that one of them has to be a meeting where everyone is invited to the same spot. And that's all.

MS. SCAVERA said that Representative Wilson is correct. She suggested to include "there shall be one public meeting", but said that the bottom line is that you have to have four meetings a year and one must be a public meeting with members in attendance, and the others can be telephonic.

CHAIR WILSON said that "all members" should be removed.

4:04:00 PM

REPRESENTATIVE ROSES explained his amendment to Conceptual Amendment 1. He said that Representative Seaton's interpretation is that there are [four] meetings and for one of the meetings the attempt is made to have all of the members in the same room. However, Representative Fairclough's interpretation is that if a member did not participate in the face-to-face meeting, the member could personally attend a different meeting. Representative Roses stated that both interpretations were confirmed by Ms. Scavera.

4:05:00 PM

MS. SCAVERA remarked:

... if we had a public meeting and not all members were able to attend that public meeting, we would not have a telephonic meeting and fly one person in and the rest not. We ... try very hard, give different dates, to have a public meeting, once a year for this committee, where all members can attend. And we, it's a scheduling nightmare, but we try to make that happen.

4:05:54 PM

REPRESENTATIVE SEATON opined that crossing out the last "meeting" in line 20 would not be a problem, but taking out "for at least one" is problematic because the committee may wish to meet in person more than once.

4:06:38 PM

REPRESENTATIVE ROSES withdrew his amendment to Conceptual Amendment 1.

4:06:49 PM

MS. SCAVERA suggested taking out the word "all" on line 20.

4:07:07 PM

REPRESENTATIVE GARDNER expressed her understanding that this committee is being changed from 12 members to the new federal

mandate. Referring to the fiscal note, she asked whether the committee now has only three members.

CHAIR WILSON clarified that there will be three additional members.

[4:07:44 PM](#)

REPRESENTATIVE CISSNA offered, for discussion, that "a quorum of members may participate in quarterly meetings telephonically, except for at least one meeting each year shall be in person." She added that it is a good idea to always have a quorum.

MS. SINNOTT affirmed that a quorum is needed at all meetings to conduct business.

[4:09:01 PM](#)

MS. SCAVERA stated that Representative Cissna's suggestion would be an acceptable conceptual amendment.

[4:09:20 PM](#)

REPRESENTATIVE SEATON restated Conceptual Amendment 1 that would read as follows:

Members may participate in quarterly meetings telephonically except for at least one meeting each year shall be a meeting in person.

[4:09:52 PM](#)

REPRESENTATIVE FAIRCLOUGH said that she would be voting against Conceptual Amendment 1 due to the fact that the attorneys at Legislative Legal and Research have already removed that language.

[4:10:17 PM](#)

CHAIR WILSON observed that the drafters could be instructed to follow the committee's direction.

[4:10:38 PM](#)

REPRESENTATIVE NEUMAN pointed out that the governor will be notified if a member is not attending appropriately, and that would make the language in the bill applicable.

[4:11:39 PM](#)

MS. SINNOTT stated that the federal guidelines require the employment committee to meet four times per year, but not all members have to meet four times per year. She agreed that "all" should be removed.

[4:12:17 PM](#)

REPRESENTATIVE GARDNER expressed her belief that the language needs to be clarified by the drafters.

[4:12:56 PM](#)

MS. SCAVERA offered to work with the chair's staff and the drafters to correct the language.

[4:13:23 PM](#)

REPRESENTATIVE CISSNA asked for the next committee of referral.

[4:13:34 PM](#)

CHAIR WILSON responded that the next committee of referral is the House Finance Committee.

[4:14:06 PM](#)

REPRESENTATIVE ROSES recommended that the bill be moved out of committee.

CHAIR WILSON recalled that there is an amendment to consider.

[4:14:19 PM](#)

REPRESENTATIVE CISSNA asked whether the committee bylaws will address the question of the number of required meetings.

MS. SINNOTT replied no. She further advised that the retention of members is not a part of state statute or federal regulation, but is addressed in the committee bylaws.

[4:15:03 PM](#)

REPRESENTATIVE SEATON reminded the committee that the amendment is conceptual and that the chair's staff is aware of its intent.

CHAIR WILSON removed her objection. There being no further objection, Conceptual Amendment 1 was adopted.

[4:15:21 PM](#)

REPRESENTATIVE ROSES moved to report HB 178, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

[4:15:45 PM](#)

REPRESENTATIVE FAIRCLOUGH objected to Conceptual Amendment 1.

REPRESENTATIVE ROSES withdrew the motion to report HB 178, as amended, from committee.

[4:16:09 PM](#)

CHAIR WILSON called for a roll call vote.

REPRESENTATIVE GARDNER asked for a reading of the amendment.

REPRESENTATIVE SEATON re-read Conceptual Amendment 1 as follows:

Members may participate in quarterly meetings telephonically except that at least one meeting each year shall be a meeting in person.

[4:16:42 PM](#)

REPRESENTATIVE CISSNA asked for discussion of the objection.

[4:16:51 PM](#)

REPRESENTATIVE FAIRCLOUGH restated that the original language is correct.

[4:17:31 PM](#)

A roll call vote was taken. Representatives Seaton, Cissna, Gardner, Roses, and Wilson voted in favor of Conceptual Amendment 1. Representatives Fairclough and Neuman voted

against it. Therefore, Conceptual Amendment 1 passed by a vote of 5-2.

[4:18:08 PM](#)

REPRESENTATIVE ROSES moved to report HB 178, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 178(HES), was reported out of the House Health, Education and Social Services Standing Committee.

HB 113-OPTOMETRISTS' USE OF PHARMACEUTICALS

[4:18:46 PM](#)

CHAIR WILSON announced that the final order of business would be HOUSE BILL NO. 113, "An Act relating to the prescription and use of pharmaceutical agents, including controlled substances, by optometrists."

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REPRESENTATIVE NEUMAN moved to adopt CSHB 113, Version 25-LS0411\K, Bullard, 3/5/07. There being no objection, Version K was before the committee.

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REPRESENTATIVE RALPH SAMUELS, Alaska State Legislature, speaking as the prime sponsor, paraphrased from the sponsor statement, which read as follows [original punctuation provided]:

House Bill 113 would allow optometrists to prescribe systemic (oral) medication to treat a patient's eyes or for an allergic shock reaction. Currently Alaskan optometrists are limited to prescribing only topical medications, while optometrists in 45 states, the District of Columbia and Guam are able to prescribe systemic (oral) medications.

The course of study that optometrists undergo is comparable or exceeds that required of their peers in the health care professionals who are already granted the ability to prescribe medications. Optometry programs include several semesters of pharmacology, in addition to studies in human anatomy, physiology, and biochemistry. Optometrists, like dentists and

podiatrists, attend four years of graduate school after receiving their undergraduate degree, while nurse practitioners and physicians assistants only complete two years of graduate school. Yet of these professions, only optometrists are limited to prescribing topical agents.

Regulations are already in place to ensure that only qualified optometrists may prescribe systemic medications. Optometrists must pass an exam, such as the "Treatment and Management of Ocular Disease" from the National Board of Examiners in Optometry, and must show that they have completed the necessary continuing education in pharmacology each year in order to prescribe any medications authorized under statute.

Increasing optometrists' prescribing authority will be of benefit to Alaskan patients, preventing those who require oral or inject-able prescriptions from having to visit a general practitioner in addition to their regular optometrist. This will save patients time and money, and allow optometrists greater participation in their patients' care.

REPRESENTATIVE SAMUELS cautioned the committee that it will hear much testimony that may not support the bill; however, it is important and necessary.

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CHAIR WILSON clarified that this bill will enable optometrists to treat anaphylactic reaction and other conditions.

REPRESENTATIVE SAMUELS said that HB 113 is especially for the benefit of rural Alaskans, and these services are commonly performed across the country in less rural areas.

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REPRESENTATIVE GARDNER asked how many communities in Alaska have an optometrist, but do not have an ophthalmologist or a physician.

REPRESENTATIVE SAMUELS answered that there are twenty ophthalmologists in six locations, and one hundred and nine optometrists in eighty-five locations.

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REPRESENTATIVE CISSNA asked how many optometrists are located on the road system.

REPRESENTATIVE SAMUELS deferred answering her question to his staff.

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CHAIR WILSON requested a description of Version K.

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SYDNEY MORGAN, Staff to Representative Ralph Samuels, Alaska State Legislature, prime sponsor, explained that Version K specifies the scope of the prescriptive authority and educational requirements. She said that additions in Sec. 1 clarify that the endorsement allows the prescription of pharmaceutical agents if the applicant passes the exam on ocular pharmacology, completes 23 hours in an approved non-topical therapeutic pharmaceutical agent course, and completes seven hours in an injections course. She continued to say that a new subsection is included in Sec. 2, that adds endorsement renewal requirements of eight hours of continuing education concerning the use and prescription of pharmaceutical agents, seven hours of continuing education concerning injections, and other board requirements. In addition, new language in Sec. 3 defines what controlled substance the endorsement allows the licensee to prescribe. An allowable controlled substance is prescribed and used for the treatment of ocular disease or conditions, ocular adnexal disease or conditions, or emergency anaphylaxis; is not a schedule 1, 2, or 6 drug; is not prescribed for more than four days of use; is not injected into the eyeball. In addition, the licensee must have a physician-patient relationship and a Drug Enforcement Administration (DEA) registration number.

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REPRESENTATIVE FAIRCLOUGH asked for a definition of a physician-patient relationship.

MS. MORGAN expressed her understanding that it would have to do with the payment for the service and she offered to supply a clear definition at a later date.

REPRESENTATIVE FAIRCLOUGH referred to page 3, line 5, and asked for clarification of the term "physician-patient relationship." She asked whether an optometrist will be considered a physician in the interpretation of the term.

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CHAIR WILSON noted that the bill states, "as defined by the board in regulation."

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MS. MORGAN added that further testimony will be provided on this subject.

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REPRESENTATIVE SEATON asked whether the four-day limit on the prescription will prevent a patient from completing a course of antibiotics.

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MS. MORGAN offered that optometrists can address the majority of issues brought before them within the time limit.

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CHAIR WILSON pointed out that the four-day limit only pertains to a controlled substance, such as pain medication, not an antibiotic. She opined that a patient who needs pain medication for more than four days will need to be referred to a doctor.

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CINDY BRADFORD, Doctor of Ophthalmology, American Academy of Ophthalmology; Assistant Professor, Dean A. McGee Eye Institute, Department of Ophthalmology, University of Oklahoma Health Center, University of Oklahoma, stated her opposition to HB 113. She informed the committee that she teaches ophthalmology and eye surgery to internal medicine and family practice resident medical students. Dr. Bradford stated that HB 113 is an expansion of what is legal in most of the other states. Oklahoma allows for the broadest of authority of optometry, and the Alaska bill will be broader than all but Oklahoma. It is important, she said, that optometry and ophthalmology work together to serve the large number of patients. However, this

bill removes the limits of the pharmaceutical rights of optometry and expands the rights to medications that affect the entire body. She opined that narcotics are rarely needed for eye conditions unless a patient has had retinal surgery. These systemic medications interact with other medications being taken by a patient and, in fact, factors can be involved on a level that an optometrist would not be trained to diagnose and prescribe for the type of treatment that is covered in HB 113. Dr. Bradford described the training involved for optometry versus ophthalmology. She concluded by saying that quality care for patients means that they are treated by professionals who have been trained to diagnose and prescribe appropriately.

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REPRESENTATIVE ROSES asked about drug and drug interaction training for ophthalmologists.

DR. BRADFORD replied that there is a one year internship treating patients with many diseases, and supervised by an attending physician. She reviewed the teaching process regarding pharmacology.

REPRESENTATIVE ROSES further asked about the percentage of training time that is dedicated to drug interaction and pharmaceuticals.

DR. BRADFORD responded that every day of medical school, students are learning about medications and drugs.

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REPRESENTATIVE ROSES asked Dr. Bradford to estimate the time optometrists spend learning about drug interaction and the use of the pharmaceuticals that are endorsed by HB 113.

DR. BRADFORD opined that this bill endorses a large group of systemic pharmaceuticals that affect the entire body, and that optometrists would never have encountered.

REPRESENTATIVE ROSES restated his question.

DR. BRADFORD emphasized that the medications that this bill allows are beyond an optometrist's clinical experience.

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CHAIR WILSON asked about an ophthalmologist's internship.

DR. BRADFORD answered that, during the one-year internship, students are not working in the eye clinic but are studying internal medicine and are managing a variety of patients.

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LESLEY L. WALLS, Physician of Optometry, Medicine, and president of the Southern California College of Optometry, stated his support for HB 113.

CHAIR WILSON asked for a description of Dr. Walls' medical training.

DR. WALLS responded that he is a board certified family doctor, an optometrist, and is a former associate dean of the University of Oklahoma. He opined that Alaska's optometrists are able to safely and effectively use the drugs and treatments allowed in the bill. Dr. Walls said that the four year continuing education requirement is more than adequate, together with the four year degree that optometrists hold. He described the training that optometrists receive and disagreed with the previous testifier. Dr. Walls assured the committee that, upon graduation, optometrists have the clinical experience and the pathological and pharmacological qualifications to manage patients.

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REPRESENTATIVE ROSES asked what percentage of training an optometrist receives for the dispensing of, and interaction with, the drugs authorized by HB 113.

DR. WALLS replied that it is difficult to say; however, it is a major part of every examination. In addition, an optometrist's clinical experience is with patients who have potential drug interactions.

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REPRESENTATIVE ROSES asked whether Dr. Walls is familiar with Alaska's licensing exam for optometrists, and whether the test is adequate to determine the ability of the state optometrists to administer these drugs.

DR. WALLS, calling on his experience as a Dean of Optometry at the Southern California College of Optometry, and as a former member of the National Board of Examiners in Optometry, assured the committee that it is a rigorous examination. In fact, he said that he has been involved in the development of training and testing for the courses of injectable and systemic medications in other states.

REPRESENTATIVE ROSES asked whether Dr. Walls could compare the optometrist's and ophthalmologist's state certifications regarding the use of pharmaceuticals.

DR. WALLS responded that ophthalmologists automatically hold full prescriptive authority by their state medical license. In answer to a question, he added that optometrist's licensing falls under state statute.

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REPRESENTATIVE NEUMAN asked what role a pharmacist would play in dispensing the correct prescription drugs.

DR. WALLS replied that his college recommends to its students the use of pharmacists as a resource in many areas.

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REPRESENTATIVE ROSES asked Dr. Walls to compare Alaska with the licensing tests in other states that currently allow optometrists to prescribe pharmaceutical agents.

DR. WALLS responded that Alaska's test will be more rigorous because it requires more hours of training on injectables; however, testing on prescribing systemic drugs is similar to that of other states.

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REPRESENTATIVE ROSES asked whether Dr. Wall knew what kind of insurance and malpractice insurance coverage an optometrist or ophthalmologist would be required hold.

DR. WALLS informed the committee that malpractice insurance has not increased in the states that allow optometrists the expanded responsibilities authorized by HB 113.

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REPRESENTATIVE GARDNER asked whether there is a large range of limitations in the 45 states that allow expanded authority by optometrists.

DR. WALLS noted that, except for medical and osteopathic doctorates, individual legislatures set the licensing requirements. Therefore, there are no identical laws between states.

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REPRESENTATIVE FAIRCLOUGH asked what the major, new responsibilities are that optometrists are allowed to perform in various states.

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DR. WALLS answered that some states don't allow injections, or may have restrictions on certain medications.

REPRESENTATIVE FAIRCLOUGH further asked Dr. Walls to compare Alaska's law with the other 45 states and requested the specific disparity between the state's regulations.

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DR. WALLS referred to information that can be provided by the American Optometric Association and that describes state by state prescriptive authority.

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MICHAEL BENNETT, Doctor of Optometry; President, Alaska Optometry Association, informed the committee that he is in private practice in Juneau. Dr. Bennett said that he received his education in Michigan and also has research experience.

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REPRESENTATIVE GARDNER asked whether his degree is a Doctorate in Optometry.

DR. BENNETT answered yes. He explained that optometrists have been recognized as physicians by Medicare and insurance carriers since the 1970s.

REPRESENTATIVE GARDNER asked whether all optometrists are doctors.

DR. BENNETT responded yes. He added that there is an accreditation board for optometry schools. Optometrists attend four years of medical school, including 200 hours of pharmacology, plus anatomy and clinical work. Dr. Bennett continued to say that optometrists, who see many patients, are the gate keepers to eye care. All day long his patients come in with multiple health issues. Dr. Bennett said that he makes frequent contact with his patient's primary care physician. In response to a question, he explained that his is a standard practice and his training is similar to others in his field.

CHAIR WILSON observed that all optometric schools require 200 hours of pharmacology. She then asked about undergraduate requirements.

DR. BENNETT replied that the criterion is an undergraduate degree, just as though a student was applying to any other medical school.

CHAIR WILSON confirmed that all optometric schools require four years of study.

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REPRESENTATIVE ROSES asked Dr. Bennett about the percentage of his patients that have been referred to ophthalmologists for care.

DR. BENNETT responded that, over the length of his practice, between 15 to 20 percent have been referred.

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REPRESENTATIVE ROSES asked whether the passage of HB 113 will affect the percentage of referrals.

DR. BENNETT estimated that the change would not decrease the referrals by one percent. What is primarily addressed in this bill is the treatment of eyelid infections, and the majority of these are very minor.

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REPRESENTATIVE ROSES questioned whether the passage of this bill is a way for optometrists to begin to perform laser and corrective surgery.

DR. BENNETT disagreed.

REPRESENTATIVE ROSES asked whether the passage of this bill will significantly increase Dr. Bennett's income stream.

DR. BENNETT answered, "I don't think it's going to change my income stream at all." He explained that a patient is charged when they are seen, whether they are referred or not. He opined that HB 113 will result in a small percentage of increased cases.

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REPRESENTATIVE ROSES asked whether Dr. Bennett has any concerns about patient care if HB 113 passes.

DR. BENNETT empathized with the committee's responsibility to deal with an unknown entity. However, he opined that the track record is impeccable for optometrists and the committee should not have too much concern. The states with similar regulations that were polled by the Alaska State Medical Board in 2001, do not have problems to report or an increase in malpractice insurance cases.

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REPRESENTATIVE GARDNER requested a copy of the 2001 survey.

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BOB LOESCHER informed the committee that he is a life long Juneau resident and has traveled extensively in rural Alaska. Mr. Loescher explained that he is opposed to HB 113. As a kidney transplant patient and a diabetic, he is under the care of an ophthalmologist. His sight is lost in one eye, and there is no regaining what is lost. As a citizen with many eye care conditions, he urged the committee to consider the importance of the eyes to patients. His optometrist did tests but, within a week, his diabetes took his eyesight. The optometrist did not know about his other medical conditions. Also, he is on steroids, and a doctor's care is important to manage these types of drugs. He suggested that the prescription of drugs is of

critical importance and asked the committee to err on the side of medical doctors and support ophthalmology.

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REPRESENTATIVE ROSES commented that this bill has brought testimony from doctors, but that Mr. Loescher is the first individual citizen to come forward.

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CHAIR WILSON related a personal story of misdiagnosis, and observed that, regardless of the title, a doctor may or may not be competent.

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JILL GEERING MATHESON, Doctor of Optometry, and chair of the Alaska State Board of Examiners in Optometry, stated her personal support for HB 113. She said that the board has not issued an official position; however, she assured the committee that if HB 113 passes, the board will cooperate with the department to pass regulations.

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REPRESENTATIVE ROSES repeated his question about optometrists trying to get approval to perform laser surgery.

DR. GEERING MATHESON answered that laser surgery is not included in HB 113.

REPRESENTATIVE ROSES asked whether Dr. Geering Matheson's revenue stream will be increased by the passage of the bill.

DR. GEERING MATHESON said no.

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CHAIR WILSON announced that HB 113 would be held over for further testimony.

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REPRESENTATIVE GARDNER asked the sponsor to have the Alaska State Medical Board provide an opinion on the bill.

## **ADJOURNMENT**

There being no further business before the committee, the House Health, Education and Social Services Standing Committee meeting was adjourned at [5:27:53 PM](#).