

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

April 16, 2007

10:06 a.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Mark Neuman, Vice Chair
Representative Carl Gatto
Representative Gabrielle LeDoux
Representative Jay Ramras
Representative Robert L. "Bob" Buch
Representative Berta Gardner

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Representative John Coghill
Representative Mike Kelly
Representative Les Gara

COMMITTEE CALENDAR

HOUSE BILL NO. 228

"An Act relating to fees for certain medical treatment and service under the Alaska Workers' Compensation Act; and providing for an effective date."

- MOVED CSHB 228(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 65

"An Act relating to breaches of security involving personal information, credit report and credit score security freezes, consumer credit monitoring, credit accuracy, protection of social security numbers, care of records, disposal of records, identity theft, furnishing consumer credit header information, credit cards, and debit cards, and to the jurisdiction of the office of administrative hearings; amending Rule 60, Alaska Rules of Civil Procedure; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 228

SHORT TITLE: WORKERS' COMP. MEDICAL TREATMENT FEES

SPONSOR(S): REPRESENTATIVE(S) KELLY

03/29/07 (H) READ THE FIRST TIME - REFERRALS
03/29/07 (H) L&C, FIN
04/16/07 (H) L&C AT 10:00 AM CAPITOL 17

WITNESS REGISTER

DEREK MILLER, Staff
to Representative Mike Kelly
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 228 on behalf of
Representative Kelly, sponsor.

SALLIE STUVEK, Director
Human Resources
Fairbanks Northstar Borough
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 228.

MICHAEL HAUGEN, Executive Director
Alaska Physicians & Surgeons, Inc.
Anchorage, Alaska

POSITION STATEMENT: Testified in support of the bill as
"another stop-gap measure" to use in figuring out what is
driving the cost increases in the workers' compensation system.

LINDA HALL, Director
Division of Insurance
Department of Commerce, Community, & Economic Development
(DCCED)
Anchorage, Alaska

POSITION STATEMENT: Testified on behalf of the division in
support of HB 228.

JAMES J. JORDAN, Executive Director
Alaska State Medical Association (ASMA)
Anchorage, Alaska

POSITION STATEMENT: Testified in favor of a balanced approach
that will help meet physician recruiting goals.

ROD BETIT, President
Alaska State Hospital and Nursing Home Association (ASHNHA)

Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 228.

PAUL F. LISANKIE, Director

Division of Workers' Compensation

Department of Labor & Workforce Development (DLWD)

Juneau, Alaska

POSITION STATEMENT: Offered information during the hearing on HB 228.

WAYNE STEVENS, President/CEO

Alaska State Chamber of Commerce

Juneau, Alaska

POSITION STATEMENT: Encouraged the work of the committee in moving HB 228 through the legislative process.

BARBARA HUFF TUCKNESS, Director

Governmental and Legislative Affairs

Teamsters Local 959

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 228.

ACTION NARRATIVE

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at [10:06:20 AM](#). Representatives Buch, Gatto, Gardner, and Olson were present at the call to order. Representatives LeDoux, Ramras, and Neuman arrived as the meeting was in progress.

HB 228-WORKERS' COMP. MEDICAL TREATMENT FEES

[10:06:36 AM](#)

CHAIR OLSON announced that the only order of business would be HOUSE BILL NO. 228, "An Act relating to fees for certain medical treatment and service under the Alaska Workers' Compensation Act; and providing for an effective date."

[10:06:53 AM](#)

DEREK MILLER, Staff to Representative Mike Kelly, Alaska State Legislature, presented HB 228 on behalf of Representative Kelly, prime sponsor. He paraphrased the sponsor statement, which read as follows [original punctuation provided]:

In 2005 the Alaska Legislature passed [Senate Bill] 130 which was a rework of the Workers Compensation statutes. As part of this rework, medical payments were frozen at the 2004 fee schedule so that a review could be done of the underlying reasons for premium increases. This review was to be jointly done by a special Workers Compensation Legislative Taskforce in concert with the Department of Labor & Workforce Development Medical [Services] Review Committee. Two important tasks of the committee were to look at program design problems and to study the underlying reasons for medical cost increases experienced in the program. Following this, the taskforce was to develop recommendations to moderate program increases in the future. As part of the conditions of the medical rate freeze, the Taskforce was to have completed their review by February of 2006 and the rate freeze would sunset in August of 2007 (to be replaced by a new fee schedule).

The Taskforce did not complete its report by February of last year and we are facing the sunset of the medical rate freeze in August of this year. There is not yet a plan for the post rate freeze sunset period and that is why this legislation was introduced.

Under HB 228, the medical rate freeze would be extended two years to allow time for recommendations to be developed. It implements an annual rate increase based on the CPI [Consumer Price Index] index. This extension of the freeze should allow time for the insurance companies to compile and submit their analysis and recommendations after reviewing care costs for injured workers so that the Legislature can address the underlying reasons for premium increases.

MR. MILLER directed attention to the sectional analysis for HB 228, which read as follows [original punctuation provided]:

Section 1. Specifies that fees and other charges for medical treatment or service provided before August 1, 2007 do not exceed the fees in the fee schedule specified by the Workers' Compensation Board in its published bulletin dated December 1, 2004. Specifies that fees and other charges for medical treatment or service provided after August 1, 2007, but before March 31, 2009 is the percentage change between 2004

and 2006 in the medical care component of the Consumer Price Index for the Anchorage metropolitan area.

Section 2. Repeals AS 23.30.097(a)(1), specifying fees and other charges for medical treatment or service may not exceed the fees in the fee schedule specified by the Workers' Compensation Board in its published bulletin dated December 1, 2004.

Section 3. Allows the Department of Labor & Workforce Development and Workforce Development to adopt regulations necessary to implement this act.

Section 4. Section 3 of this act takes effect immediately.

Section 5. Section 1 and 2 of this act take effect July 31, 2007.

MR. MILLER described HB 228 as "a short-term solution to a long-term fix that we hope will ... come to fruition in the coming years."

[10:10:18 AM](#)

REPRESENTATIVE GARDNER inquired as to whether information is available to injured workers seeking medical care to direct them to physicians who will treat them at the current rate.

MR. MILLER said he does not know, but he suggested that an upcoming testifier may be able to provide and answer.

[10:10:47 AM](#)

REPRESENTATIVE RAMRAS stated that although ongoing care is a different issue, immediate care often means emergency room care.

[10:11:38 AM](#)

REPRESENTATIVE LeDOUX expressed concern regarding whether the issues currently affecting those under Medicare are happening to those covered by workers' compensation.

MR. MILLER replied that the sponsor's intention is to streamline HB 228 to address the medical component of workers' compensation rates, with the hope that larger issues will be addressed in the future.

REPRESENTATIVE LeDOUX clarified that she is not trying to fix the national health care problems in one bill, but rather wants to ensure that HB 228 "or the previous bill" didn't cause the same problems for workers as has happened for those under Medicare.

[10:12:58 AM](#)

MR. MILLER, in response to a question from Representative Gatto, confirmed that medical fees currently charged by medical doctors are capped at the 2004 medical rate fees, and HB 288 proposes to adjust that cap according to the rising cost of providing those services.

REPRESENTATIVE GATTO asked if the hospital fees, outside of the physicians' fees, would also be adjusted.

MR. MILLER said he does not know, but can find out.

[10:14:32 AM](#)

SALLIE STUVEK, Director, Human Resources, Fairbanks Northstar Borough, said she oversees the workers' compensation programs for both the Fairbanks North Star Borough and the Fairbanks North Star Borough School District. She stated that the Fairbanks North Star Borough supports HB 228. She relayed that the borough was concerned about the sunset provisions and is pleased that legislation has been introduced to address that issue. She continued:

The worst-case scenario for us would be to allow the fee schedule to lapse without any consideration of its impact. We need stability in establishing costs for provider services, and an extension of the fee schedule allows for that stability.

The adjustment to the schedule also seems reasonable, as it has been frozen at 2004 rates. An inflation factor is appropriate, as costs have not remained stagnant for medical services during that period. However, the mechanism chosen in the language may not be available; I'm not sure that ... the Department of Labor & Workforce Development has actually calculated the medical CPI for Anchorage, so you may want to take a look at that.

The only part of the bill ... that we have reservations about is the March, 2009, sunset language. The extension basically puts us back in the same scenario that we're currently in; it just extends it. And so, we would propose that consideration of a long-term solution be found so that we don't have to continue to address this issue in the future.

Having said that, we are ... supportive of the bill, as is, because it does put us in a much better position in the interim than just having the fee schedule lapse in August.

The committee took a brief at-ease from 10:17:17 AM to 10:17:39 AM.

[10:17:45 AM](#)

MICHAEL HAUGEN, Executive Director, Alaska Physicians & Surgeons, Inc., testified in support of the bill as "another stop-gap measure" to use in figuring out what is driving the cost increases in the workers' compensation system. He urged the committee to put pressure on the insurance industry to produce data to figure out "where these costs are coming from." He said the request for that data originated back in October 2004, and it has still not been produced.

[10:18:41 AM](#)

LINDA HALL, Director, Division of Insurance, Department of Commerce, Community, & Economic Development (DCCED), testified on behalf of the division in support of HB 228. She said the bill obviously affects language in the Department of Labor & Workforce Development, but the actual outcome of the cost of the workers' compensation system is what drives workers' compensation premiums. She agreed that some type of cap on medical fees will be necessary once the current freeze ends, and she said she thinks HB 288 seems reasonable in its use of a CPI adjustment.

MS. HALL said some of the information she would present is available in the committee packet. She noted that in Alaska, [medical] fees have increased from 41 percent of the cost of the system in 1985 to its current amount of 69 percent. She predicted that without some type of parameter on how much can be charged for medical fees, there is likely to be a dramatic increase in the cost of the system. She said that system cost

drives premium costs. She said one type of premium cost is called, "lost cost," which is the physical dollars paid out. Ms. Hall explained that when the division does a premium rate-making analysis, it looks at historical system cost, using three years of system cost data, and then it does what is called, "trending," which projects future costs. After that, the division adds a carrier component related to expenses. She added, "So, what we're talking about today is just the actual lost cost piece of a rate making."

MS. HALL mentioned a couple of premium rate rankings from Oregon. She related that in 2004, Alaska had the second highest rates in workers' compensation in the country, with its average being \$4.39, while California's average was \$6.08. As of 2006, Alaska ranked number one, with approximately a \$5.00 average rate index, exceeding California's rate by nearly 80 cents. She stated, "I don't think this is a number one we ever hoped to reach."

MS. HALL mentioned a rate history going back to 1959. She said there was a 10.2 percent rate increase in 2002. The largest rate increase, at 21.4 percent, was in 2004. She noted that that rate increase has slowed and, as of 2007, there has been a rate decrease. She stated, "I would not presume to say that ... that decrease will continue; I could almost guarantee that it won't if we don't do something about medical fees."

MS. HALL directed attention to a handout in the committee packet compiled by the National Council on Compensation Insurance, Inc., which suggests that if no action is taken, the system cost will increase between 4.5-5.8 percent. She said that does not include compensation premiums; it reflects only the system cost. If HB 228 is passed, the impact on the system will be reduced to between .8-1.2 percent. Ms. Hall said any kind of impact works its way through the workers' compensation rates for a period of years. She said the division has seen those rate increases and urges the legislature to pass HB 228.

MS. HALL mentioned another handout showing "medical severity," which she said includes factors of price and utilization, and which shows the increase in medical costs over the CPI and how complex the issue actually is when comparing varying treatments and their related cost. She noted that there is a 25-page study that she would make available to any interested committee members.

[10:24:59 AM](#)

REPRESENTATIVE LeDOUX said the purpose of changing the workers' compensation law in 2005 was to allow a task force to create ideas that would be implemented to solve the problem. She said that does not seem to have happened, thus, the legislature is "back here again with this kind of band aid approach." She said she is not comfortable with that.

MS. HALL replied that she does not disagree with Representative LeDoux and would like to see some long-term solutions; however, it does not appear that those solutions are forthcoming. In regard to medical data, she noted that there has been a half-year debate over "who requested what from whom, and when." She stated that she did not receive a request for information until one and a half years ago. Claims data, she relayed, is sensitive; it is personal information. She said the insurance companies are willing to provide information to one of two sources: herself, as the director of the Division of Insurance; or the National Council on Compensation Insurance, the statistical agent. She continued:

In December of last year there was a meeting where there was finally a data set described of what kind of information was being requested; what would satisfy the medical community, in terms of medical information. Also, to put together a body of data that would give us some idea of where we have, as a state, areas that may be out of line or are growing faster than other areas. That data took almost a year to actually get at what is it you really want.

At that time, the National Council on Compensation has done - for lack of better term - ... what's called a "data call." They go out to the insurance companies [and] they ask for the information. The insurance companies have agreed to provide it. It is a manual task. They did not keep this level of detail in the data they collect. It's a ... gruesome, almost manual task, going back to bill providers, bill reviewers, and actually putting together manually the kind of information we're asking for them to provide.

So, I would suggest to you that I'm anticipating, at some point, still this year - I'm not going to say when - we will have the medical data that has been asked for.

Meanwhile, there is a national study - I've given you two pages of it - that shows the same kind of data on a national basis. So, I think we will have a good body of information analyzing the cost of various types of claims by various types of providers.

[10:29:07 AM](#)

MS. HALL, in response to a request from Representative Neuman, explained that without HB 228, there would be no cap on "the provider fees that are charged to treat Worker's Compensation." She continued:

Up until August 1, of 2007, there has been a medical fee schedule promulgated by the Division of Workers' Compensation - the Workers' Compensation Board. That fee schedule still dates to December of 2004, so that the fees have been frozen since that date. There would be a normal increase, say, in 2006 and 2007, because that fee schedule would have applied to 2005. Even ... if we had continued the cap, there would be logical increase as the medical fees go up. So, this is saying [that] without any cap, they will go up reasonably to 5.8 percent [maximum], I believe. Even with this cap, it's ... moving the cap forward. I don't think anybody thought that it was fair to keep that freeze going on at that level into perpetuity. So, there would still be ... an increase, although much smaller.

REPRESENTATIVE NEUMAN asked Ms. Hall how an increase of 4.5 to 5.8 percent in workers' compensation rates would affect small business owners.

MS. HALL emphasized that "this isn't premium rates," but rather is "a component." She continued:

I think that without this bill, or something of this nature, we will likely see an increase immediately, because ... from the analysis NCCI [National Council on Compensation Insurance, Inc.] does - and they do the rate filings for Alaska; they are the statistical agent ... - I think we can anticipate seeing an increase immediately. We will also see an increase in workers' compensation medical care that will carry forward for a number of years.

10:32:38 AM

MS. HALL, in response to Representative Gatto, confirmed that the bill adjusts the CPI.

REPRESENTATIVE GATTO asked if emergency room and post-care fees are also capped.

MS. HALL replied that that is her understanding.

REPRESENTATIVE GATTO asked, "If ... a physician or a person involved in long-term care simply said, 'At that rate, I'm not interested,' would we be forced to pay the higher rate if no service was available, or would we send a patient outside, or have we not reached that situation where we simply had a refusal for care?"

MS. HALL offered her understanding that there have been no complaints regarding the availability of medical care to date, although she indicated that that could happen. She said, "The complaints we receive from injured workers are not about the access to medical care, but rather the way in which their claim has been handled."

REPRESENTATIVE LeDOUX recalled that during her first session as a legislator, the legislature changed the medical tort system, capping punitive damages. The reason, she reviewed, was to make Alaska more "doctor friendly," in order to solve a shortage of doctors. This year, she noted, the House has voted to increase the number of WAMI scholarships. She questioned how a bill designed to put a cap on medical fees will fit into the philosophy of making Alaska more desirable for doctors to come live and practice.

MS. HALL responded that that is not her area of expertise. She offered her understanding that Mr. Jordan had indicated that doctors do support [HB 228].

10:35:50 AM

CHAIR OLSON said he has spoken with many members of the aforementioned task force. He said he thinks part of the problem is that Senators Seekins and Guess were no longer on the task force as of last November. He offered his understanding that "the framework for the task force" still exist, but simply has not been funded.

MS. HALL said that's her understanding.

[10:36:26 AM](#)

JAMES J. JORDAN, Executive Director, Alaska State Medical Association (ASMA), in response to Representative LeDoux's previously stated question, said the Alaska State Medical Association represents physicians across the state. He said there are many members who are employers "no different than any other small employer," and there are members for whom a large portion of their practice involves dealing with injured workers. He stated that the Alaska State Medical Association's interest in HB 228 and in dealing with "any appropriate and timely change" is "a balancing act." He posited that the association is interested in a balanced approach - having a fair system that will help meet physician recruiting goals.

REPRESENTATIVE LeDOUX referred to a letter [included in the committee packet] from Roland Gower, M.D., [President of ASMA], dated April 13, 2007, which she said does not seem to be a "ringing endorsement" of the bill. She asked Mr. Jordan to respond.

MR. JORDAN agreed that the letter is not a ringing endorsement; however, he indicated that it includes a recommendation that [the bill] be amended to "tie in some regular provision of such data" to be reviewed by the Medical Services Review Committee (MSRC). He said that frankly, ASMA is guessing at what its members' reactions will be to HB 228. He stated that the reform enacted in 2005 was supported by the medical association on the basis that there would be an objective review of data regarding what is driving medical costs, in order to determine "which areas and which surgery" are needed, as well as to ensure doctors can [perform procedures] "with the scalpel and not the machete."

REPRESENTATIVE LeDOUX shared her understanding that the ASMA does not support HB 228 in its present form, but supports the bill if amended.

MR. JORDON confirmed that's correct. He said the association would like to see a tie-in to the production of data, not only related to the present, but also into the future.

[10:41:51 AM](#)

CHAIR OLSON noted that Mr. Jordan served as the Deputy Director of the Division of Insurance prior to his moving to ASMA. He stated that he has found Mr. Jordan to be extremely knowledgeable regarding workers' compensation issues over the years, among other insurance issues.

REPRESENTATIVE GARDNER referred to the aforementioned letter from Dr. Gower, and drew attention to the last sentence, which read as follows:

ASMA urges you to not take action that will adversely impact an injured worker's access to care.

REPRESENTATIVE GARDNER pointed out that the letter does not specify whether, in the opinion of ASMA, HB 228 would adversely impact that access. She said it is unclear whether or not ASMA supports or opposes the bill.

[Due to technical difficulties, there is no sound recording from 10:43:00 to 10:54:25; that segment was reconstructed from Gavel to Gavel's recording.]

REPRESENTATIVE GARDNER referenced the last paragraph on the first page of the letter from Mr. Gower, which read as follows:

It must be pointed out that it is ASMA's understanding that physicians do not have a different fee schedule for injured workers than for other patients.

REPRESENTATIVE GARDNER said she would like the record to reflect whether or not that is a fact, rather than just a general understanding.

MR. JORDAN replied that he does not know the answer. He explained that fee data is not collected by the association. Furthermore, he said that the association has not heard, anecdotally, of physicians charging different rates to attend to an injury resulting in an accident at work versus an accident on the ski slopes.

REPRESENTATIVE LeDOUX questioned the need for the freeze if physicians are not charging differently for work versus non-work injuries.

[10:44:50 AM](#)

MS. HALL explained that the Department of Labor & Workforce Development has always had caps on provider fees and fee schedules. She said "we" have the ability to negotiate between payors and providers related to medical fees. She mentioned preferred provider organizations (PPOs) and various discounted plans. She stated, "None of that is a tool that is available to the payers of workers' compensation claims, whether they be insurance companies or self insured; that is prohibited under statute today."

REPRESENTATIVE LeDOUX asked, "Why don't we simply cap the fees that the workers' compensation carriers can charge, or lower those fees?"

MS. HALL replied that if the fees that insurance companies can charge are capped below their actual costs, the carriers are going to be less willing to write fees in Alaska.

REPRESENTATIVE LeDOUX questioned why the same logic would not apply to workers' compensation carriers and physicians.

MS. HALL replied that it is her responsibility to look at claims costs and adjust accordingly, and she said she does not know that anybody has that kind of oversight of the charges and the actual costs of medical providers.

[10:48:01 AM](#)

REPRESENTATIVE GARDNER asked for clarification regarding the task force. She said if the task force has not been effective in the past, perhaps there is different approach that should be taken.

MS. HALL responded that she thinks the data and the task force are two different things. The task force met and came up with a report. She continued:

The Medical Services Review Committee was supposed to bring back recommendations to that group regarding what they felt might be solutions to the problems that we're encountering with the medical costs. That group was looking for data. They have come to me for that data at this point, but not two and a half years ago. So, I think the task force did perform the functions as they were set out, and I can't tell you that it would or wouldn't be a good idea to continued that. I think that was a legislative call on legislative

members, as well as various stakeholders. I mean, I think it was an excellent exchange of ideas and an attempt to get buy-in.

MS. HALL, in response to a question from Representative Gardner, explained that "severity" relates to cost of claims, not injury.

REPRESENTATIVE NEUMAN asked Ms. Hall to give her opinion as to why the task force is taking longer to complete its job.

MS. HALL stated that the task force is having a difficult time completing its job for the same reason the legislature has had a difficult time wrestling with issues: there are so many diverse stakeholders with varying opinions regarding what needs to change and what does not. She said she thinks there is an overall thought that anything done to help one stakeholder automatically penalizes another stakeholder. She said she does not think there was adequate time and discussion to arrive at a solution acceptable to all the stakeholders.

CHAIR OLSON asked if stakeholders are being treated as sacred cows.

MS. HALL said she cannot answer that question.

10:52:50 AM

ROD BETIT, President, Alaska State Hospital and Nursing Home Association (ASHNHA), testified in support of HB 228. He noted that there is a statement from the ASHNHA membership in the committee packet. He said ASHNHA began the process some time ago of trying to head off what it sees as a serious problem for small and medium employers should HB 288 not be passed, which is that there is no administrative method in place to take the place of the cap when it is repealed. Without the cap, he related, insurers would be forced to pay charges for physicians in the hospitals, which would result in 25-30 percent higher payments for services rendered. He explained, "We give big discounts currently under this program."

MR. BETIT reminded the committee that he is talking only about medical claims related to injured workers' treatments for injuries. He said, "There's a cap that's being extended and then increased by the CPI. It's only a cap in those injuries themselves. It isn't a cap on everything that physicians in hospitals do; it's specific to that population of patients and their specific injury."

MR. BETIT said ASHNHA approached the bill sponsor to warn that without timely legislation, the cap would be repealed in August [2007], "the charges are then what they pay ... by," and "the reserves that insurers have been collecting through premiums to pay for that medical care won't be enough to cover it." He said there will be future adjustments and premiums, and principally the small employers or medium employers - because a lot of larger employers self-insure - will see some very significant changes to their premium structure. He said he doesn't think anyone wants that to happen.

MR. BETIT stated, "The thing that has been holding up a solution, in my view, is the medical cost analysis." He said he served on the task force where no one wanted to "drill down into making finite recommendations for permanent solutions 'til they understood what the medical cost increases were attributed to." He said, "We have some suspicions, but nobody had any hard data to be able to decide what to do" Mr. Betit said a general rate adjustment across the entire community was not appropriate, because there were "specific areas we thought were going up faster than others." The data that would help decide what action is needed, originally due by summer [2007], is now expected to be available at a later date. He stated his understanding that the task force is "sunsetting" - the original extension period having expired already. Mr. Betit recommended that the Medical Services Review Committee, within the Department of Labor & Workforce Development, be given the task of coming up with recommendations, hopefully by the next legislative session, at which point there could be a meaningful discussion regarding the present and future of the workers' compensation program in Alaska.

MR. BETIT said it is both his and his membership's perspective that HB 228 is "critical to head off a particular problem." He stated that ASHNHA does not like extending the cap, because it does not think that is the best way to do business; however, he said he thinks there could be some serious repercussions in the future if there's nothing to take the place of the cap that is being repealed.

[10:56:57 AM](#)

REPRESENTATIVE BUCH requested clarification regarding workers' compensation care costs.

MR. BETIT replied that there are multiple reimbursement arrangements agreed to by hospitals. He said there was a reimbursement methodology used by the Department of Labor & Workforce Development in workers' compensation up until 2004, whereby it would take charges from all the hospitals and arrive at a per day rate for any worker-related care provided by hospitals. Senate Bill 130 extended that plan for two years in order to allow more time to come up with a better system. The proposed legislation would once again extend that plan, while also giving "a CPI adjustment" for two years, which would be a slight improvement over using the rates from 2004.

REPRESENTATIVE BUCH stated his concern that the level of care "is the same for that particular type of injury and that type of payment as it is for any other type of injury."

MR. BETIT confirmed that the care remains the same; there is no difference in care provided based on the agreed upon reimbursement arrangements.

[10:59:00 AM](#)

REPRESENTATIVE NEUMAN asked Mr. Betit to share with the committee the problems he has addressed, what solutions were found, and why he feels more time is needed.

MR. BETIT responded that two groups were working on the issue simultaneously: the Medical [Services] Review Committee, in the Department of Labor & Workforce Development, and the task force created by the legislature. He indicated that the focus [of the legislative task force] was on the underlying cause of the health care costs and possible solutions. He said there were small steps taken initially, but until the cost data was available, no one felt comfortable moving forward with permanent recommendations. He said he personally has never seen specific recommendations come out of any of the legislative leadership of that task force. In response to a follow-up question from Representative Neuman, offered his understanding that the primary reason for the extension was that Senator Seekins, chairing the task force, had noted at its last meeting that the earliest [the data] would be available would be in July 2007. He said he heard that through third-party means, and he understands that there may be additional complications to delay the data.

REPRESENTATIVE GARDNER offered her understanding that the hospital association is not subject to the rate freeze, but rather, it has a rate negotiated with the state.

MR. BETIT replied as follows:

We would be subject to this bill. What I was referring to is that ... the reimbursement arrangement between the workers' compensation program and each of our hospitals ... wasn't so much negotiated, but it was arrived at by the board and [its] process of setting those rates over the years. And it's a per-day rate, and it's different for each hospital. We do negotiate lots of rates, obviously, with other entities, like employers; but we don't have as much individual negotiation authority when we're working with the state on [its] programs [as] we do with other entities.

[11:01:49 AM](#)

REPRESENTATIVE GARDNER asked, "If you operate under a negotiated rate with ... other organizations, ... and you're subject to this 2004 rate freeze, what ... was the rate used for your base?"

MR. BETIT answered that the Department of Labor & Workforce Development compiled a history of the claims submitted for injured workers and what the charges for those claims were, from which the board and the department produced a daily rate. He said [ASHNHA] accepts that rate as payment in full for services. That is the rate that was in place in 2004 and has continued under the freeze for the last two years.

REPRESENTATIVE GARDNER suggested that since ASHNHA is accustomed to negotiating rates, if HB 228 did not pass, it could simply negotiate a rate that would not greatly increase the state's cost.

MR. BETIT said he cannot speak for ASHNHA's 37 members. Notwithstanding that, he surmised that "whatever they come up [with] would not be consistent throughout the system." Furthermore, he said he does not know what the instructions from the Department of Labor & Workforce Development would be to the insurers, in terms of what they should pay toward claims of injured workers.

REPRESENTATIVE GARDNER posited that if the association supports HB 228, but the bill does not pass, then the association could still choose to "implement it in terms of [its] own coding for Workers' [Compensation]."

MR. BETIT reiterated that the association does not make that decision - its individual members do, and he said he does not know how those members would handle that situation. In response to a follow-up question from Representative Gardner, he confirmed that those individuals have made the decision to support the bill, because they believe it is the best solution "to get the time needed to make some permanent change to the program, without creating a financial crisis for anyone."

REPRESENTATIVE LeDOUX questioned why the workers' compensation carriers don't negotiate rates with physicians and hospitals as healthcare insurers do.

MR. BETIT suggested that the Department of Labor & Workforce Development would be better equipped to answer that question.

[11:05:22 AM](#)

MS. HALL stated that one of the reasons it does not work to have negotiated rates for workers' compensation is that "you can't direct care." She continued:

We don't regulate their fee arrangements with any provider; that's something the insurance company is able to do with the provider. You then, in health insurance, have in-network providers and out-of-network providers, for which the health insurance carriers pay different amounts. But ... that is a choice that you can go to an in-network or not, and there may be a difference in cost.

REPRESENTATIVE LeDOUX, regarding the state health care system, offered her understanding that there are no places where people are directed to go, but she said she knows the rate is lower for those with health care insurance than for those without it.

MS. HALL said even with state insurance, there are both in-network and out-of-network providers. Those providers are reimbursed, and the insured may be subject to a different level of co-payment. She reminded the committee that [the division] doesn't regulate the state's health insurance program, nor does

it regulate any self-insured program, "so there may be some differences in that also."

11:07:46 AM

PAUL F. LISANKIE, Director, Division of Workers' Compensation, Department of Labor & Workforce Development, stated that under current law, it is illegal to interfere with the selection of a health care provider; the injured worker has control over the selection. He concurred with Ms. Hall that typically, when there is some negotiation, the quid pro quo is: "If you give us a lower volume rate, we can guarantee you that you'll get the volume of people seeking your services, and ... a workers' compensation insurer doesn't have any control over that process, other than the pay up to the required amount."

11:08:38 AM

MR. BETIT, in response to Representative Buch, confirmed his understanding is that the aforementioned task force has been discontinued, as it has not met since September [2006], and there is no money appropriated for its continuance. In response to a follow-up question from Representative Buch, he reiterated that July 2007 was the estimated date provided at Senator Seekins' last task force meeting on which the anticipated data would be made available; however, since then that date has been postponed, possibly by four to five months. He recommended that the Medical Services Review Committee in the Department of Labor & Workforce Development be the entity to finish the work of the task force regarding the presentation of the data.

11:10:15 AM

MR. BETIT, in response to Representative Gatto, confirmed that medical charges are specific to each hospital, thus there could be ten different charges for the same treatment code depending on which hospital provides the treatment. He explained that the discount percentage he had used during his previous testimony was a best estimate based upon the daily rate set by the Department of Labor & Workforce Development for that facility, versus the charges at the time. He continued:

... It isn't really just a flat 25 percent; it's an estimate on my part, and it varies by facility - it could be a little less, it could be a little more. But, no, they couldn't raise their rates and see any improvement in what they're getting paid for the

services that they're providing, because that's set by the Department of Labor & Workforce Development.

... What [the] Department of Labor & Workforce Development sets is a daily rate, per facility, for each day of care that they provide to that injured worker.

11:12:03 AM

WAYNE STEVENS, President/CEO, Alaska State Chamber of Commerce ("the chamber"), testified that the chamber has long advocated to lower the high cost associated with workers' compensation insurance. He reviewed the history of the medical rates and the freeze. He stated that substantive reforms are needed to address the quality of medical utilization, as well as other factors, such as frequency and [severity] of costs. Mr. Stevens reviewed that the task force work was supposed to result in recommendations to ease rate increases going forward, and that work was to result in a newly recommended rate fee by the time the medical rate freeze sunsets in August 2007. That work has not been completed and the report has not been submitted. He said the extension of the medical rate freeze to March 2008, proposed by HB 228, will allow time for "the committee to complete its data gathering and analysis and develop its recommendations," and will allow sufficient time for the legislature to address the underlying reasons for premium increases. He stated that the chamber encourages the work of the committee in moving HB 228 through the legislative process.

REPRESENTATIVE GARDNER, referring to the statistics previously stated by Representative Neuman regarding Alaska's poor standing among other states when comparing Worker's Compensation rates, asked Mr. Stevens if his membership believes it is medical costs that are to blame for the state's continued decline - even in the face of a rate freeze - and whether another rate freeze will remedy the situation.

Mr. Stevens replied, "It's our belief that ... absent a rate freeze, the rates will escalate, presumably to make up for whatever perceived difference would have occurred in that ensuing two-year period and whatever CPI adjustments may very well be made." He said there are a number of costs; however, he stated that it is the understanding of [the Alaska Chamber of Commerce] that medical costs are singularly the largest driver of Worker's Compensation.

CHAIR OLSON noted that the workers' compensation rates dropped approximately 11 percent in [2007] - the first time in seven years there has been a reduction. He indicated that [the freeze] may have had an impact.

[11:15:52 AM](#)

REPRESENTATIVE NEUMAN said he interprets one of Mr. Stevens' prior remarks to mean that although there is a rate freeze, it allows for CPI increases; therefore, "it's not like a doctor or anybody in the medical field is going to be going into the negative on this."

MR. STEVENS responded, "That's not my understanding. Consumer Price Index is calculated by the Department of Labor & Workforce Development at the national level on a number of factors ... to rate the level of inflation annually, and that would - as it [is] captured in this bill - ... allow the rates to increase, based on that index."

[11:17:08 AM](#)

REPRESENTATIVE BUCH shared his understanding that a major component has been lost with the [discontinuation of] the task force. He questioned whether there is a way to reinstate the task force and reliably complete the job that was started.

MR. LISANKIE replied that he agrees with the previous testimony of Mr. Betit that the Medical Services Review Committee was established as an ongoing entity. He posited that that committee has struck a good balance between health care providers and other stakeholders in the workers' compensation system; therefore, when the data becomes available, that committee would certainly be willing to pick the issues up once more. He stated:

If it was a decision of the body that there should be a new workers' compensation task force, you would have time to institute one to receive the recommendations from the Medical Services Review Committee, or, in the absence of such a task force, my advice for the review committee would be to submit it to the entire legislature or, you know, through that methodology.

[11:19:06 AM](#)

REPRESENTATIVE BUCH expressed concern that the information be received.

MR. LISANKIE offered his understanding that the on-going efforts to get that data into the system are being made independently of the existence of the task force. He stated that he understands Representative Buch's concern.

MR. LISANKIE, in response to a question from Representative LeDoux, said the price of prescription drugs is not capped. In response to a follow-up question, he said the price of those drugs has a significant impact to medical costs. He said he has no personal opinion regarding whether the price of prescription drugs should be regulated, other than to say he thinks that is an issue that the MSRC is free to take up. He concluded, "If I continue to have input on that committee, I certainly think it would be of interest."

REPRESENTATIVE NEUMAN observed that the testimony of those who support the bill seems to show that they want the extended freeze in order to have time for a solution to be found. He inquired as to how that solution would affect workers' compensation in the future, particularly as it relates to competition in the market place. He said he thinks one of the major reasons for the large increase in medical costs for workers' compensation is due to the lack of competition in Alaska, which he said is a result of the state's high incident rate, low population, and expansive state.

MR. LISANKIE responded as follows:

I think that's actually what's driving the various concerns of the various stakeholders, that we not do something that appears logical on its face, based on some experience in, say, a more urbanized setting, and then end up inflicting something on the less urbanized state of Alaska, which wouldn't work. And I'd say that the challenge that's before the Medical Services Review Committee or a task force or you, as individual members of the legislature, is that in many instances, one person's unacceptable cost is somebody else's revenue stream or their benefit.

We're talking about medical costs as ... more than 50 percent of workers' compensation benefits, but that certainly is going to affect the next time the cash benefits are increased. People are going to weigh the

overall impact on the system. So, that is a bit of [a] conundrum; it is difficult for us to do things in a setting where we have a huge geographical area and a total population that's the size of ... a medium-size city. And I know that Director Hall is doing everything she can to try and have more insurance companies compete for the business, but certainly everybody else that's a stakeholder in a process, whether they're a health care provider or a provider of prescription drugs or durable medical equipment - all these things go into this very complicated question that you're asked to address.

[11:24:37 AM](#)

REPRESENTATIVE RAMRAS asked whether there are plans to work with the attorney general (AG) to do a significant overhaul of the Worker's Compensation system, because he said the attorney general has the expertise to offer help.

MR. LISANKIE replied that he has worked with the AG previously in various capacities and would be happy to work with him.

REPRESENTATIVE RAMRAS suggested that the overhaul of the workers' compensation system might be considered in January 2008.

REPRESENTATIVE BUCH expressed appreciation for the work done by Mr. Lisankie and Ms. Hall. He stated, "The one good thing we do have is ... a carrier now that is in the black for the first time in a long time, and ... if, by increments, we can make some positive changes, I think that we're perhaps on the right track here."

[11:28:46 AM](#)

BARBARA HUFF TUCKNESS, Director, Governmental and Legislative Affairs, Teamsters Local 959, testified in support of HB 228. She confirmed that she was a member of the labor management workers' compensation coalition groups that worked for about one and a half years and presented recommended changes regarding workers' compensation. Regarding the medical component, she said injuries relate to medical costs. The coalition task force was somewhat disappointed when recommendations that it gave regarding workers' compensation changes were set aside in favor of then Governor Frank Murkowski's own legislation. She said, however, that some of the task force's recommendations were

incorporated into that legislation. She stated for the record that the coalition did discuss medical costs, including pharmaceutical costs. She stated that while it was not a big change, the coalition did look at utilization of generic drugs. She said she does not know any workers' compensation in existence in which an injured worker has had trouble finding a physician and appropriate treatment.

MS. HUFF TUCKNESS emphasized that one big issue is related to the controversy with the insurance companies, which she said is a distinctly different situation than that of the medical costs.

MS. HUFF TUCKNESS stated that Teamsters Local 959 believes that HB 228 is an important piece of legislation, and while members of the Local 959 do not believe the proposed legislation will fix the problem, it will hopefully give an opportunity "for some folks to get back together again and to start looking at hopefully making some changes out there that are ... beneficial to the injured workers." Ms. Huff Tuckness said Alaska does not have a system set up whereby an injured worker is "directed to go to a physician," and she said the Local 959 believes that is a good factor, not a bad one. Because of that scenario, she explained, "you don't have PPOs out there in the workers' compensation program."

[11:32:27 AM](#)

REPRESENTATIVE RAMRAS concurred that two key points are reducing costs to employers, while providing the best benefits for injured workers. He asked Ms. Huff Tuckness to speculate what the situation would be like now if the task force recommendations she spoke of had been adopted into the workers' compensation legislation.

MS. HUFF TUCKNESS responded that those task force recommendations were actually two-fold. She said the task force had a bill that it would have liked to see introduced that would have addressed some of the existing cost issues. Another piece of legislation the following year would have addressed the medical and more contentious issues that she said the task force was not able to encompass. She said she thinks the aforementioned Medical Services Review Committee is having a similar problem in getting information. She said a medical cost is the thread that runs through everything that the Local 959 deals with. For example, when negotiating labor agreements, the issue is the medical costs and how they will be covered, through

wages or other areas in the contracts. She indicated the need to find a fair and balanced perspective that recognizes the point of physicians as well as workers.

CHAIR OLSON asked Ms. Huff Tuckness if she thinks MSRC would be the vehicle to use to analyze the anticipated data once it becomes available.

MS. HUFF TUCKNESS answered yes.

MS. HUFF TUCKNESS, in response to Representative Neuman, clarified that she had not been a participant on the legislative task force [during the hearing of Senate Bill 130]. She said her involvement was with the Workers' Compensation Labor Management Ad Hoc Committee, which she said ensured the implementation of legislation enacted to change workers' compensation. She reiterated that the Teamsters Local 959 supports HB 228 and hopes to comment on the data once it is made available.

MS. HUFF TUCKNESS, in response to Representative Buch, offered further clarification regarding her involvement in the ad hoc committee. She mentioned a letter written in January by Vince Beltrami, American Federation of Labor and Congress of Industrial Organizations (AFL/CIO), to Dick Cattanach of the Association of General Contractors of Alaska, suggesting the reinstatement of the ad hoc committee. She offered her understanding that there has been no response to the letter. She concluded, "The task force is something that's been out of our ... hands."

[11:39:42 AM](#)

CHAIR OLSON, after ascertaining that there was no one else to testify, closed public testimony.

MR. MILLER drew attention to [Amendment 1] in the committee packet, which he said would allow for the adjusted change to match the national CPI.

[11:40:59 AM](#)

REPRESENTATIVE NEUMAN moved to adopt Amendment 1, which read as follows [original punctuation provided]:

Page 2, line 3,

Delete: "for the Anchorage metropolitan area"

REPRESENTATIVE LeDOUX objected for discussion purposes. She asked:

What would be the difference between all urban consumers - a consumer price index - or if you did it on a totally ... statewide basis, which would include all consumers, whether they're in Anchorage, Fairbanks, Juneau, or in the Bush?

MR. MILLER said he does not know.

[11:43:04 AM](#)

REPRESENTATIVE RAMRAS said he shares Representative LeDoux's concern regarding the reflection of a different inflationary schedule in the Bush; however, he said as it relates to Amendment 1, there is not a great deal of difference between the CPI for Anchorage and the national CPI.

REPRESENTATIVE NEUMAN said he thinks Amendment 1 addresses Representative LeDoux's concern that there be a broader scope. He said he sees Amendment 1 as encompassing the state as a whole.

[11:44:44 AM](#)

REPRESENTATIVE LeDOUX questioned the choice of "doing this on [an] increase in the consumer price index for everybody all across the country," rather than using the CPI for the State of Alaska.

MR. MILLER offered his understanding that other states use a similar adjustment to their workers' compensation rates, thus he thinks it is appropriate to use for the State of Alaska. In response to Chair Olson, he confirmed that the conformity was the intent of the bill drafter.

MR. MILLER, in response to Representative LeDoux, confirmed that data regarding the medical care component is not available for 2003-2004, so for those years, the state is conforming to the national CPI.

[11:47:00 AM](#)

MR. MILLER, in response to Representative Gatto, stated his belief that Amendment 1 would benefit everyone. He said, "If the committee chose not to adopt it, I'm not sure how the Division of Insurance would be able to adjust the rates accordingly."

REPRESENTATIVE LeDOUX removed her objection to Amendment 1. There being no further objection, Amendment 1 was adopted.

[11:47:54 AM](#)

REPRESENTATIVE NEUMAN moved to report HB 288, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 228(L&C) was reported from the House Labor and Commerce Standing Committee.

The committee took an at-ease from 11:48:31 to 11:56:12.

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at [11:56:53 AM](#).