

**ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE**

April 19, 2007

1:34 p.m.

MEMBERS PRESENT

Senator Johnny Ellis, Chair
Senator Gary Stevens, Vice Chair
Senator Bettye Davis
Senator Con Bunde

MEMBERS ABSENT

Senator Lyman Hoffman

COMMITTEE CALENDAR

SENATE BILL NO. 102

"An Act relating to mortgage lenders, mortgage brokers, mortgage originators, state agents who collect program administration fees, and other persons who engage in activities relating to mortgage lending; relating to mortgage loan activities; relating to an originator fund; relating to fees for mortgage loan transactions; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 107

"An Act relating to naturopaths and to naturopathic practice; establishing a Naturopathic Advisory Committee and an Alaska Naturopathic Formulary Council; amending the duties of the State Medical Board and the Board of Pharmacy relating to naturopathic practice; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 140

"An Act requiring paid leave from employment for bone marrow donation."

SCHEDULED BUT NOT HEARD

CS FOR HOUSE BILL NO. 118(RLS)

"An Act relating to underage possession of alcoholic beverages in a dwelling."

SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 102

SHORT TITLE: MORTGAGE LENDING

SPONSOR(s): SENATOR(s) HUGGINS BY REQUEST

03/02/07	(S)	READ THE FIRST TIME - REFERRALS
03/02/07	(S)	L&C, FIN
04/17/07	(S)	L&C AT 1:30 PM BELTZ 211
04/17/07	(S)	Scheduled But Not Heard
04/19/07	(S)	L&C AT 1:30 PM BELTZ 211

BILL: SB 107

SHORT TITLE: NATUROPATHS

SPONSOR(s): SENATOR(s) DAVIS BY REQUEST

03/07/07	(S)	READ THE FIRST TIME - REFERRALS
03/07/07	(S)	L&C, HES, FIN
04/19/07	(S)	L&C AT 1:30 PM BELTZ 211

WITNESS REGISTER

DANA OWEN

Staff to Senator Ellis
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Commented on SB 102.

MARK DAVIS, Director

Division of Banking and Securities
Department of Commerce Community & Economic Development
Juneau AK 99801

POSITION STATEMENT: Commented on SB 102.

MARIE DARLIN, Volunteer Coordinator

AARP Capital City Task Force
Juneau AK

POSITION STATEMENT: Commented on SB 102.

DANIELLE FAGRE ARLO, Senior Vice President

State Government Affairs
American Financial Services Association (AFSA)

POSITION STATEMENT: Supported SB 102.

JOHN CARMAN, Chairman

Legislative Affairs
Alaska Mortgage Bankers Association

POSITION STATEMENT: Supported the concept of SB 102.

JOHN MARTIN, Member
Predatory Lending Task Force
Alaska Association of Mortgage Brokers (AAMB)
Anchorage AK
POSITION STATEMENT: Supported the new CS to SB 102.

JOE BRAMMER, Chairman
Legislative Committee
Alaska Association of Mortgage Brokers
POSITION STATEMENT: Supported the new CS to SB 102.

TOM OBERMEYER
Staff to Senator Davis
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Commented on SB 107 for the sponsor.

GARY FERGUSON, N.D.
Eastern Aleutians
State of Alaska
POSITION STATEMENT: Supported SB 107.

EMILY KANE, N.D.
Juneau AK
POSITION STATEMENT: Supported SB 107.

SCOTT LOOPER, N.D.
Fairbanks AK
POSITION STATEMENT: Supported SB 107.

PATRICIA ANDERSON
Anchorage AK
POSITION STATEMENT: Supported SB 107.

ACTION NARRATIVE

CHAIR JOHNNY ELLIS called the Senate Labor and Commerce Standing Committee meeting to order at [1:34:54 PM](#). Present at the call to order were Senators Davis, Stevens, Bunde and Ellis. The chair announced that HB 118 would not be heard today and that this would be the first public hearing for the other three.

SB 102-MORTGAGE LENDING

[1:36:11 PM](#)

CHAIR ELLIS announced SB 102 to be up for consideration and that there was a committee substitute labeled 25-LS0691\C).

DANA OWEN, staff to Senator Ellis, stated that he had just received the CS from the sponsor to SB 102 and said that Mark Davis would explain it in greater detail. It is identical to the current House version that passed out of House Labor and Commerce yesterday. The sponsor asked this committee to take up that version of the bill.

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MARK DAVIS, Director, Division of Banking and Securities, Department of Commerce, Community & Economic Development, said he would first go over the structure of the bill and then the changes in the CS. He explained that this bill proposes to license all components of the industry - mortgage bankers, mortgage brokers and mortgage originators. It states that an originator must work for one of the other licensees and that the mortgage banker and the mortgage broker must work through an originator.

The originator is the person in this industry who meets with the consumer, sits down with them and goes over their proposal to get a mortgage. An important component then is continuing education under AS 06.61.060, which hasn't changed in either version, to require originators to be aware of both Alaska law and federal law.

The bill has a series of prohibitions in it. For example, AS 06.60.320 prohibits false advertising; it also requires compliance with federal mortgage law. Presently 10 federal statutes apply to mortgages, but there is limited enforcement by the federal agency. Recently, states have been adopting federal standards and then examining for compliance with them. The ones people are more familiar with are the Truth in Lending Act and the Real Estate Settlement Procedures Act of 1974.

MR. DAVIS noted on December 8, 2006, the State of Maine commissioned a Predatory Lending Task Force and after several months of investigation, one of its major conclusions was that Maine should enforce or examine for respite the Real Estate Settlement Act. That is also in this bill.

1:40:25 PM

He said the idea is that they would examine mortgage brokers, mortgage licensees and originators for compliance not only with the provisions of this statute, but with the federal statutes.

CSSB 102, version C, also has certain refinancing prohibitions in section 350. However, it clearly doesn't affect the remedies that are already available to the Attorney General under the Alaska Consumer Protection Act.

MR. DAVIS said he had been working with the Department of Law on this bill and the CS reflects changes that it wanted.

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Essentially the bill says there is a private right of action under the Consumer Protection Act or to the Attorney General which provides for either treble damages or restitution. The consumer protection section of law has done mortgage cases already under that act.

MR. DAVIS explained that the CS inserts an exemption for anyone who is already licensed under Alaska's Small Loan Act. The idea is that they are not trying to double up on regulation and if one regulates under another licensing scheme, that is fine.

However, he said the federal exemption was modified and he explained that some of the exemptions were designed to allow non-profit housing organizations to help people with their mortgages without being licensed, but also an exemption exists for certain federal subsidiaries of federal banks or the banks themselves or state banks.

[1:42:48 PM](#)

With regard to state banks, Mr. Davis said his division already examines them and their mortgage activities. The federal government has taken the position that it should examine any federal bank and any subsidiary of a federal bank that does mortgage lending. The U.S. Supreme Court ruled on Tuesday that any subsidiary or operating subsidiary of a federal bank engaged in mortgage lending would not be subject to any state regulation. He said CSSB 102, version C, tracks that decision in that the bill was drafted using the rule of law established in the Ninth Circuit that was essentially affirmed by the U.S. Supreme Court.

The only issue open under that case is that the Supreme Court said under the Gramm-Leach-Blighly Act an affiliate of a bank that is engaged in insurance and securities will be subject to state regulation. What it didn't say is whether an affiliate of a bank that engages in banking and other banking activities would be subject to preemption.

MR. DAVIS said the bill was changed to deny an originator's license if he previously violated a chapter even if it happened in another state. This situation has already occurred in Alaska.

CHAIR ELLIS asked how this bill protects consumers in that respect.

MR. DAVIS replied that it allows for a background check of licensees along with their licensing status. This bill brings the state more in line with securities law. The CS also says that the mortgage bankers would be responsible for things they know or should know about the conduct of the originators - like appraisals that are way above what the property is worth or statements of income of the potential borrower, which are more than they make.

He said a criminal provision was inserted making certain violations Class A misdemeanors, which give the statute teeth. "Escrowed" is defined as having written instructions. He said there over 100 mainly technical changes - mainly lawyers using different drafting styles.

CHAIR ELLIS asked Mr. Owen if the sectional analysis relates to the CS. He answered yes.

[1:46:02 PM](#)

SENATOR BUNDE said he has heard some complaints, specifically about mortgage originators with substantial criminal records and he asked if anyone opposed tightening up these regulations.

MR. DAVIS replied the American Financial Services Association (AFSA) wants a partial exemption for their originators, which are companies that either operated in Alaska or through call centers like Countrywide and Primera. In this case the parent company would get a license and be responsible for the originators. Since this is not an administration bill, but an industry bill, he deferred to industry for their ideas.

He related that he had been told that AARP also has concerns about restitution, but those provisions are already in the bill. He explained that the surety fund is not an exclusive remedy and that one can still sue with private counsel. He believed it would be much like real estate. If it's a major case and the person you are suing has money, you'd pursue your remedies. If it's not, you might go to the realty surety fund to do the best you could. The surety fund is designed to be a stop-gap thing to make sure somebody gets some money out of a bad situation.

Making mortgage brokers and mortgage bankers liable for conduct of their originators provides people with a deep pocket which didn't exist before, a good reform. It's like a lawyer being responsible for the conduct of his paralegal.

MR. DAVIS reported the other issue AARP had was wondering why the bill included a referral to the attorney general. And the reason he wanted to adopt that is based on Minnesota law that says if it didn't have the right of referral, his division would be stuck with only the remedies in the law. He wanted the ability if someone was not a standard case to refer it to the attorney general who has the full powers of the Consumer Protection Act and/or restitution.

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SENATOR STEVENS asked what escrow language they were tightening.

MR. DAVIS replied there were questions on whether there are written instructions in every escrow agreement that will say how the money is given to a third party who would disperse it when certain events occur. He wanted to make sure a consumer had written instructions to refer to.

SENATOR STEVENS asked if this would impact Internet mortgages and out-of-state lenders.

[1:50:16 PM](#)

MR. DAVIS replied this bill proposes covering those. Two years ago an act was passed that regulates payday loans or deferred deposit companies. It had a provision for licensing interstate companies, which has been done successfully. He has been able to collect \$700,000 in restitution from many Internet lenders for some of Alaska's poorest consumers through the provisions in that act. This bill is patterned on that law and follows the same language.

CHAIR ELLIS asked his position on partial licensing of state mortgagors like Countrywide.

MR. DAVIS said he would have to think about that, but he would focus on making sure consumers are protected.

[1:52:20 PM](#)

MARIE DARLIN, Volunteer Coordinator, AARP Capital City Task Force, reference its letter with several concerns in it regarding the original bill. She had not seen the CS, but it sounded like some of their concerns were addressed in it. AARP

has the consumer's point of view and she was concerned with pointing out omissions related to consumer protection. Only a two-year statute of limitations was one concern.

CHAIR ELLIS said he would consider reasonable ways to improve consumer protection and asked her to look over the CS and comment at a later date.

MR. DAVIS added that his division and AARP are conducting seminars around the state. He explained that he looked at CSSB 102, version C, as a licensing law, but AARP is looking at it as a predatory lending law. He thought predatory lending should be dealt with in another bill. He mentioned that reverse mortgages are also questionable.

CHAIR ELLIS said if there are reasonable pro-consumer changes he would like to see them and would consider putting them in this bill.

[1:57:55 PM](#)

MR. DAVIS said he had agreed with the Department of Law to put a restitution order provision in Section 870. That is one way he would respond to AARP.

SENATOR STEVENS asked if this is the proper place to cap civil penalties.

MR. DAVIS replied these are licensing violations and the \$10,000 fine is very similar to what is in the Uniform Securities Act. The idea in this bill is if something is more than a licensing issue, like the one that is currently under federal investigation, it would be referred to the attorney general.

CHAIR ELLIS asked if things come out of this discussion that aren't appropriate to be included in this bill, would he bring them up to the committee along with suggestions on how to "tune up" other state statutes.

MR. DAVIS replied that he would be very happy to do that and related that two years ago he set up the Predatory Lending Task Force and hotline and his division had developed a database about what the current scams and problems are.

[2:00:01 PM](#)

DANIELLE FAGRE ARLO, Senior Vice President, State Government Affairs, American Financial Services Association (AFSA), supported the CS to CSSB 102, version C, and thanked everyone

for helping them work on the language, especially Mr. Davis and his division. They still have concerns, but hope to continue work on resolving them. She said AFSA is a national trade association based in Washington, D.C. Its members come from financial services firms that provide credit for consumers in small businesses; it has 350 members.

Her primary concern related to licensing individual employees and exclusive agents of large multi-state mortgage companies. This language will significantly increase the burden on lenders, regulators and consumers. Their cost will be passed on to the borrowers in the form of fees. In the case of regulators, it could have a negative effect on compliance activities. Covering collections personnel, call center employees, loan processors, underwriters and others who speak to customers in the process of completing a loan is unnecessary, she said. Regulators can also be negatively affected by the administrative burden.

MS. ARLO said that large mortgage lenders and licensed entities already have programs and policies in place for pre employment screening, background checks, in-house training, education and compliance to meet state requirements for their employees and exclusive representatives. These programs and policies help prevent fraud or other criminal activity and facilitate enforcement capability by the department. She explained:

Large mortgage lenders do not oppose licensing for loan originators who work on behalf of independent mortgage brokers to find and negotiate loans for borrowers. A mortgage broker is generally considered to be an independent person or specialty company who shops loans to different lenders for the borrower. A mortgage lender underwrites and/or funds the loan and is responsible for the credit risk of the loans.

Large mortgage lenders are very different from independent mortgage brokers in various ways. For example, they typically operate as licensed entities in multiple states, have large numbers of employees who interact with customers from many states on a daily basis. They are very well capitalized; they carry huge reputational risks associated with employee misconduct and they may be affiliated with or a subsidiary of an entity regulated by the Federal Reserve Board.

Sensible state licensing of lending companies themselves render the need to license individual employees unnecessary and it is our proposed solution in the substitution language we have prepared and will continue to work with the department on until they are satisfied.

[2:04:39 PM](#)

JOHN CARMAN, Chairman, Legislative Affairs, Alaska Mortgage Bankers Association, said CSSB 102, version C, is not perfect in anyone's mind. Last year it went through 27 revisions before it passed in the Senate 19 to 1 and died at the last minute in the House. Last year's bill only called for company licensing without a provision for individual licensing, but it was always their intention to pursue individual licensing this year and add it to the bill. Since the bill was delayed, they are now adding it at the request of their members. He thought the Division of Banking and Securities would like the provision and the fact that they have gotten as far as they have with all the diverse groups in Alaska from small mortgage brokers to major mortgage lenders is significant.

MR. CARMAN said he thought the people who were still "working on" on the bill were really trying to kill it. They fall into one of two categories - the well-intentioned people that are late to the process and do not realize how many times every word in this bill has been debated and that adding more words just adds more arguing and debate over exactly what the provision means. He said there are only three weeks left in the session and currently the state has zero regulation. They need to get a bill in place that would fund the division so it could hire more people to enforce existing laws.

The other group is people who are bad-intentioned and that might have a criminal record or for some other reason find it difficult to do business under this new bill.

The purchase of a home is huge and everyone else is licensed, he said, but today a number of convicted felons are doing mortgages. He knew of a realtor who lost her license for life for falsifying a tax return for a customer who was applying for a loan. She is now a lender because there is no restriction on her activities in lending. Recently an individual was working for a large bank and was convicted in the federal courts for banking fraud. This person had already had his license pulled in another state. If this law would have been in place, this person would not have been able to practice in Alaska.

There is no doubt, he said, that this bill gives the Division of Banking and Securities enforcement ability in an area in which it currently has none. Enforcement of the act will be self-funded with fees paid by licensees and a \$10 loan fee for each residential transaction borrower. It will be applicable to out-of-state lenders that have been a major source of complaints to the division as well as Internet lenders; it will not be onerous to implement.

2:10:00 PM

JOHN MARTIN, Anchorage, said he has been a resident of Alaska since 1959. Since 1977 he has been involved in the real estate industry as broker, investor and developer. For the last 20 years he has been in the mortgage loan business - as a mortgage loan originator, manager in charge of production of one of Alaska's largest lenders as well as the manager in charge of all their branch offices. He is a member of the Predatory Lending Task Force in Anchorage representing the Alaska Association of Mortgage Brokers (AAMB). Presently he is the owner of a small mortgage company and has two originators working with him. He is the founding member and past president of the AAMB and presently is a member of the Legislative Committee. He is president-elect of the Western Regional Mortgage Broker Lenders' Conference, an organization of 14 western states that puts on an educational program each year for people in the mortgage loan industry who receive education, get up-to-date information from national leading experts and have a face-to-face expo with the nation's top mortgage lenders.

MR. MARTIN said Alaska is the last state to license mortgage operations and recent news stories illustrate that our state is not exempt from unscrupulous operators. Licensure would put everyone on an even playing field, he said, and "background checks, competency testing, continuing education will go a long way towards serving the public." Because these would be administered by the state, they would be equal and not subject to a company-wide interpretation of what is a good background check and what isn't.

CSSB 102, version C, would give the state the ability to revoke a license if necessary and that's true accountability. It's important to realize they are only licensing originators. This has nothing to do with underwriters, shippers, processors, clerks or anyone else. It's important to license originators because if they get fired from one company and try to go to another, the state will know and have a hammer. He said the Mat-

Su Homebuilders Association, Home Inspectors of Alaska, Independent Brokers Association of Real Estate Brokers in Alaska, and the American Land Title Association, Alaska Chapter, all support this legislation. He recommended adopting the new CS.

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JOE BRAMMER, Chairman, Legislative Committee, Alaska Association of Mortgage Brokers, said he is a mortgage loan originator and had a three-fold purpose before them today. First he wanted to relate a brief history of this legislation, second he wanted to address competency testing and finally, he wanted to speak about continuing education requirements.

He related that the mortgage industry currently has no regulations. This lack of regulation has contributed to unscrupulous operators preying on the consumers of Alaska and nothing can be done currently to stop them. CSSB 102, version C, was drafted in conjunction with industry representatives from the Alaska Association of Mortgage Brokers and the Alaska Mortgage Bankers Association along with various state departments. It provides safeguards for the public and enforceable penalties for violators. It requires the licensing of mortgage companies and, more importantly, mortgage loan originators. Right now a person could pedal used cars one day and be a mortgage loan originator the next - with no training or education.

Before a loan originator can be eligible for licensing under CSSB 102, version C,, on page 5, line 24, he will be required to pass a competency test prior to dealing with the public. In addition, he will be required to attend and complete continuing education requirements as outlined on page 15, line 19. This is important for consumer protection because the industry is constantly changing. He pointed out that state regulations exist for pre-licensing testing and continuing education prior to license renewal for insurance agents, real estate brokers and others. He concluded saying that CSSB 102, version C, is a consumer protection bill designed to level the playing field in the industry that provides enforcement mechanisms and penalties for violators.

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CHAIR ELLIS said the committee had responded to the request of the sponsor to schedule and delay this bill and would take the time to do a good job on it. He said there is plenty of time for

it to pass this legislature. He said CS for SB 102, version C, would be back before the committee on Tuesday.

SB 107-NATUROPATHS

[2:21:49 PM](#)

CHAIR ELLIS announced SB 107 to be up for consideration.

TOM OBERMEYER, staff to Senator Davis, sponsor of SB 107, explained the bill relates to establishing a Naturopathic Advisory Committee and a Naturopathic Formulary Council. It amends the duties of the State Medical Board and the Board of Pharmacy relating to the naturopathic practice and provides an effective date. He said the three-member advisory committee is to be comprised of three licensed naturopaths appointed by the commissioner of the Department of Commerce, Community & Economic Development. It is responsible for selecting the Formulary Council and reviewing allegations of member misconduct. The Council will include three naturopaths, one medical doctor or osteopath and one pharmacist appointed by the respective boards to approve certain drugs to be prescribed by naturopaths and to authorized prescription endorsements to qualified naturopaths.

While the State Medical Board licenses osteopaths, podiatrists, physician assistants, intensive care and paramedics, and foreign medical graduates, the Department of Commerce, Community & Economic Development licenses naturopathic applicants who have graduated from one of the four accredited schools of naturopathy in the U.S. and one of the two schools in Canada. Applicants must also have passed the Naturopathic Physician's Licensing Examination.

New naturopathic procedures under SB 107 allow minor surgery, including operative electrical and other methods of repair to superficial lacerations and abrasion or lesions, and removal of foreign bodies in superficial tissues. The bill also allows naturopaths to use antiseptics and local anesthetics in connection with allowed procedures. The law prohibits naturopaths from performing major surgery and spinal and general anesthetics.

Thirteen states license naturopaths and nine have instituted formulary laws. The states are Alaska, Arizona, Connecticut, Hawaii, Idaho, Kansas, Maine, Montana, New Hampshire, Oregon, Utah, Vermont and Washington. Currently, Alaska has 40 practicing naturopaths, Washington has 802, Oregon has 715, Arizona has 375, Connecticut has 210, Vermont has 117, Hawaii

has 85, Montana has 67, New Hampshire has 67, Maine has 27, Utah has 18, and Kansas has 11. Nine states allow naturopaths to prescribe without any M.D. supervision or protocol, but they usually are allowed to prescribe only designated drugs.

Arizona has the broadest formulary in the nation allowing naturopaths to prescribe all but I.V. medications, controlled substances except morphine, cancer chemo-therapeutics, and anti psychotic drugs. Kansas requires M.D. supervision and Maine requires collaboration with a physician for one year prior to independent prescribing.

MR. OBERMEYER said that naturopathic doctors focus on preventative care and in keeping patients healthy and they usually rely much less than M.D.s on the use of drugs. Patients often turn to naturopathic doctors when traditional medicine has failed. One of the reasons naturopaths require formulary or prescribing law is to reduce the amount of combinations of drugs patients are taking.

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He said SB 107 is designed to reasonably expand the services of naturopathic doctors only to areas collateral to the needs of their daily practice without infringing on the duties and responsibilities of medical doctors licensed by the State Medical Board. This type of bill has been before the Senate in SB 306 in the last legislature; it went through several revisions and the result was a task force that was to address it. The Alaska State Medical Board indicated it didn't think the process was complete.

[2:27:08 PM](#)

MARY MINER, N.D., said she is currently practicing in Anchorage, and that she would address the educational requirements for naturopaths and how they compare to other licensed health care professionals in the State of Alaska.

She referenced Appendix E that compared the curricula of National College, Bastyr University, Southwest (all naturopathic colleges) and John Hopkins, Yale and Stanford. The basic clinical education is similar across the board, she observed. There are differences in the allopathic and the naturopathic strength in the clinical applications. Naturopaths do a lot more with botanical medicine, naturopathic philosophy, and oriental medicine which are not included in the allopathic schools. The total number of hours of education is similar.

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She also handed out a comparison of medical background education of licensed professionals who are able to use prescription medications at this time based on a UW study from two years ago - including nurse practitioners, physician assistants, medical doctors, and other states that license naturopaths. The prerequisites to get in to college are fairly similar; the education once they are in school is also quite similar. Naturopaths have a different focus on being more wellness oriented.

MS. MINER said it is within the scope of the practice of most licensed M.D.s to use prescription medications, particularly legend drugs, which are not controlled substances and naturopaths just want to expand their licensing to fit their training and have it available for their patients.

[2:31:07 PM](#)

GARY FERGUSON, N.D., said he practices in the Eastern Aleutians and represents the Alaska Association of Naturopathic Physicians as its Alaska Native liaison. His primary work is with the Alaska Native population although he works for Eastern Aleutian Tribes community health centers. He serves mainly the underserved population that has huge health disparities. His focus in the last five years has been in diabetes and diabetes management.

One challenge to his practice in the Aleutians is that the nine communities are remote and have a limited practitioner base. He sometimes teams up with nurse practitioners and others, but it still is often not enough. Medications often need to be changed as health improves. Since he cannot prescribe changes, patients needs separate appointments and sometimes they get the lost in the shuffle. He has been trained in pharmacology and pharmacokinetics of drugs and this bill would allow him to practice the way he was trained. He supported the bill.

[2:35:58 PM](#)

EMILY KANE, N.D., said she graduated from an accredited naturopathic school in 1992 and has been practicing in Juneau for nearly 15 years. She has had hospital privileges with Bartlett Regional Hospital for over a decade. So far the ideas of comparable education have been presented along with expanding of primary health care providers, which naturopaths are, in the state of Alaska, which is underserved.

DR. KANE said she wanted to address consumer safety. Appendix K covered states and disciplinary actions. In the years 2000 to 2003 in various states there were twice as many disciplinary actions for medical doctors as for naturopaths. However, in those years Arizona naturopaths had access to prescription drug writing. However, she noted that it's feasible that Alaska's zero disciplinary actions for the years surveyed relates to naturopaths not having access to prescription medication. She argued that prescription drugs have a much higher side effect profile, which is why N.D.s get this training. She also noted that one of the aspects of the bill insures continuing education and staying abreast of pharmaceutical practices. Dr. Kane said naturopaths want to provide the best care for their patients within the scope of their practice.

SENATOR STEVENS asked if the disciplinary actions she mentioned were for prescription misuse.

DR. KANE replied no; they covered any kind of disciplinary action that would have been registered through the Division of Occupational Licensing.

CHAIR ELLIS said the bill was referred to the Labor and Commerce Committee because of scope of practice issues and workforce development. He said the Alaska Medical Association opposed this bill saying the legislature should spend its time expanding the WWAMI slots and training programs because many M.D.s are retiring. However, the legislature has doubled the WWAMI slots this year and he supposed Dr. Kane would argue that N.D.s do fill that need every day in our state and they are a class of medical providers that could expand as well. He asked her if she could comment on that point.

[2:42:08 PM](#)

DR. KANE responded that it's fantastic that the legislature has expanded the WWAMI slots. She said she and Dr. Miner have been practicing as family doctors for over 20 years. They are already established in their communities and practicing as primary care family doctors. She has 4,000 charts. She would be more useful to her large patient base immediately. The new WWAMI doctors will be needed, but it's not an either/or situation.

[2:42:55 PM](#)

SENATOR STEVENS said he understood Dr. Ferguson's remote argument, but that's not the case here in Juneau where lots of people can prescribe medications. He asked what is the rationale is for providing her that opportunity in town.

DR. KANE replied that she makes referrals frequently saying she is "well-embedded" in the medical community here. However, sometimes it takes a long time to get in and the patient needs the antibiotic immediately. Or they are just not going to go the medical doctor. It's a freedom of choice in health care issue - in part. There are plenty of medical doctors here, but on the whole Alaskans are underserved and naturopaths are submitting they are trained and available, established and providing patient care already, and that they have more training than nurse practitioners who already have prescriptive rights. This would bring Alaska in line with all the other western states that license naturopaths and provide prescriptive rights to them.

[2:44:45 PM](#)

SCOTT LOOPER, N.D., Fairbanks, supported SB 107 and wanted to add that the main reason naturopaths are doing this is to provide the best quality care to their patients they can. Sometimes it is in the patient's best interest to receive an antibiotic, a diuretic or something like that. The fact is that naturopathic physicians are trained to prescribe when needed within the context of the practice of naturopathic medicine. They want to provide quality care with the tools they are trained to use.

[2:46:40 PM](#)

DR. LOOPER described how the right to prescribe is earned. You attend classes where you learn how to use prescription medications, then you move on to a clinic situation where under the supervision of practicing licensed doctors, you practice using them. After that, you take a national board exam; if you pass that exam, you earn the right to get licensed.

In Alaska, they do every step of that process with the exception of the licensing piece. It is often inconvenient for patients to go to another doctor when their naturopathic doctor is trained in the use of those medications. It's also more expensive, more difficult and time consuming. He has a license in Oregon and Arizona and is used to being able to use these tools on occasion.

[2:48:16 PM](#)

CHAIR ELLIS asked if the lack of prescriptive powers keeps naturopaths from locating to Alaska.

DR. LOOPER replied that he didn't know. He said the fact is that naturopathic doctors don't prescribe much. When he had the right to prescribe in Oregon and Arizona, he only wrote a script once a week or two and most times he would be taking people off of things. Not having prescriptive rights doesn't limit his ability to help people, but it creates a certain frustration knowing that you're going to be moving to a state that you can't do some basic things, like writing for thyroid hormone replacement, which is a normal thing to do in someone whose thyroid isn't working right.

[2:49:11 PM](#)

PATRICIA ANDERSON, Anchorage resident, said she had been a patient of an N.D. there and has been for over seven years. She related how she is on her third bout of breast cancer and how her naturopathic doctor worked with her oncologist to make her chemotherapy less uncomfortable for her. Her naturopath has extensive experience with cancer care. After she finished with chemotherapy, she ended up on a bone loss type medicine and he has helped her get the exact right kind of calcium to keep the bone loss minimal. She also recognizes her naturopathic doctor as her primary physician. She supported SB 107 even though she has no need of regular prescriptions. She wanted to know that he would be able to give them to her if she needed them.

[2:51:26 PM](#)

RICK URION, Director, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community & Economic Development (DCCED), disclosed that in a previous life he lobbied for the State Medical Society and was instrumental in writing the first law allowing for licensing of naturopaths in the State of Alaska. Today he represents the administration on this issue and has a neutral position on it, but he had an opinion on the two committees the bill forms.

MR. URION said it appears that the advisory committee is really a board, but it is being formed without being called a board. A committee is appointed by the commissioner of DCCED and he thought they might want to change that as well as add a member of the public - as other boards have. The advisory committee talks about disciplinary actions and that's what boards do. Also, the Formulary Counsel consists of three members in the bill, but it should consist of five members, three of which are naturopaths and one physician. He also pointed out that existing law makes it illegal for naturopaths to call themselves physicians.

CHAIR ELLIS asked if he was suggesting that the committee consider making the language more conventional to comport with the way boards are set up for other professions.

MR. URION replied yes. It appears that they are forming a board whether or not they are calling it that. All the other boards consist of members of the profession and a member of the public. The governor does the appointing, not the associations. They can make recommendations.

[2:54:50 PM](#)

CHAIR ELLIS asked Mr. Obermeyer if there is a reason the bill was drafted differently than all the other boards.

MR. OBERMEYER answered there was an initial question of whether this type of practice would be regulated by the DCCED or the State Medical Board. Basically, the naturopaths felt they were criticized harshly in the last legislature and they wanted to have some type of control. Documentation indicates that even in California that the few physicians willing and trained for N.D. supervision have difficulty getting malpractice coverage. There are many issues and he didn't have the answers for everything. He said the 40 naturopaths in Alaska are looking for a way to be recognized in their profession and expand their practice to minor procedures and to have an opportunity to be regulated within their own group. Presumably they would want to keep malpractice out of their profession.

CHAIR ELLIS requested the sponsor talk with Mr. Urion and draft the bill with standard operating procedure and bring it back to the committee next week.

[2:57:53 PM](#)

SENATOR DAVIS said she would do what is necessary to move the bill along.

[2:58:17 PM](#)

CHAIR ELLIS asked if there was any work product from Senator Seekins' Naturopathic Task Force.

MR. OBERMEYER replied there were no recommendations. He said the State Medical Board said it was concerned that naturopaths are not as well trained or educated. There is no residency program for instance. He said this group is willing to address those issues as necessary in order to have some type of regulation that everyone agrees with.

CHAIR ELLIS said they would have another meeting as soon as those things could get resolved in the committee substitute for SB 107.

There being no further business to come before the committee, Chair Ellis adjourned the meeting at [3:00:07 PM](#).