

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

April 6, 2010

3:05 p.m.

**MEMBERS PRESENT**

Representative Bob Herron, Co-Chair  
Representative Wes Keller, Co-Chair  
Representative Tammie Wilson, Vice Chair  
Representative Bob Lynn  
Representative Paul Seaton  
Representative Sharon Cissna  
Representative Lindsey Holmes

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 126

"An Act relating to continuing the secondary public education of a homeless student; relating to the purpose of certain laws as they relate to children; relating to tuition waivers, loans, and medical assistance for a child placed in out-of-home care by the state; relating to foster care; relating to children in need of aid; relating to foster care transition to independent living; and relating to juvenile programs and institutions."

- MOVED CSHB 126(HSS) OUT OF COMMITTEE

CONFIRMATION TO STATE MEDICAL BOARD

- HEARD

HOUSE BILL NO. 423

"An Act stating a public policy that allows a person to choose or decline any mode of securing health care services, and providing for enforcement of that policy by the attorney general."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 10(HSS)(EFD DEL)

"An Act requiring health care insurers to provide insurance coverage for medical care received by a patient during certain approved clinical trials designed to test and improve prevention, diagnosis, treatment, or palliation of cancer; directing the Department of Health and Social Services to provide Medicaid services to persons who participate in those clinical trials; and relating to experimental procedures under a state plan offered by the Comprehensive Health Insurance Association."

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 126

SHORT TITLE: FOSTER CARE/CINA/EDUCATION OF HOMELESS

SPONSOR(S): REPRESENTATIVE(S) GARA

02/11/09	(H)	READ THE FIRST TIME - REFERRALS
02/11/09	(H)	EDC, HSS, FIN
02/25/09	(H)	EDC AT 8:00 AM CAPITOL 106
02/25/09	(H)	Heard & Held
02/25/09	(H)	MINUTE(EDC)
03/02/09	(H)	EDC AT 8:00 AM CAPITOL 106
03/02/09	(H)	Heard & Held
03/02/09	(H)	MINUTE(EDC)
03/09/09	(H)	EDC AT 8:00 AM CAPITOL 106
03/09/09	(H)	Heard & Held
03/09/09	(H)	MINUTE(EDC)
03/11/09	(H)	EDC AT 8:00 AM CAPITOL 106
03/11/09	(H)	Moved CSHB 126(EDC) Out of Committee
03/11/09	(H)	MINUTE(EDC)
03/12/09	(H)	EDC RPT CS(EDC) NT 2DP 2NR
03/12/09	(H)	DP: GARDNER, BUCH
03/12/09	(H)	NR: KELLER, SEATON
04/14/09	(H)	HSS AT 3:00 PM CAPITOL 106
04/14/09	(H)	Heard & Held
04/14/09	(H)	MINUTE(HSS)
04/01/10	(H)	HSS AT 3:00 PM CAPITOL 106
04/01/10	(H)	Heard & Held
04/01/10	(H)	MINUTE(HSS)
04/06/10	(H)	HSS AT 3:00 PM CAPITOL 106

BILL: HB 423

SHORT TITLE: POLICY FOR SECURING HEALTH CARE SERVICES

SPONSOR(S): JUDICIARY

03/31/10 (H) READ THE FIRST TIME - REFERRALS  
03/31/10 (H) HSS, JUD  
04/06/10 (H) HSS AT 3:00 PM CAPITOL 106

#### **WITNESS REGISTER**

REPRESENTATIVE LES GARA  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during discussion of HB 126, as the prime sponsor of the bill.

WILLIAM RESINGER, Doctor  
State Medical Board  
Palmer, Alaska

**POSITION STATEMENT:** Answered questions during the hearing for confirmation of his re-appointment to the State Medical Board.

REPRESENTATIVE CARL GATTO  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 423 on behalf of the bill sponsor, the House Judiciary Standing Committee.

THOMAS REIKER, Staff  
to Representative Carl Gatto  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during testimony on HB 423 on behalf of the sponsor of the bill, the House Judiciary Standing Committee.

DENNIS BAILEY, Attorney  
Legislative Legal Counsel  
Legislative Legal and Research Services  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during discussion of HB 423.

#### **ACTION NARRATIVE**

[3:05:15 PM](#)

**CO-CHAIR WES KELLER** called the House Health and Social Services Standing Committee meeting to order at 3:05 p.m. Representatives Keller, Herron, Seaton, T. Wilson, Holmes, and

Cissna were present at the call to order. Representative Lynn arrived as the meeting was in progress.

**HB 126-FOSTER CARE/CINA/EDUCATION OF HOMELESS**

[3:05:47 PM](#)

CO-CHAIR KELLER announced that the first order of business would be HOUSE BILL NO. 126, "An Act relating to continuing the secondary public education of a homeless student; relating to the purpose of certain laws as they relate to children; relating to tuition waivers, loans, and medical assistance for a child placed in out-of-home care by the state; relating to foster care; relating to children in need of aid; relating to foster care transition to independent living; and relating to juvenile programs and institutions." [In front of the committee was proposed Committee Substitute (CS) for HB 126, 26-LS0309\O, Mischel, 3/30/10, adopted as the working document on 4/1/10.]

[3:06:30 PM](#)

REPRESENTATIVE LES GARA, Alaska State Legislature, explained that the sponsors had worked on amendments to address the earlier concerns. He explained that one amendment would clarify the standards for reentry into foster care, and would determine that "it was in the child's best interest."

[3:07:05 PM](#)

CO-CHAIR KELLER requested that the proposed Amendment 1, which had been objected to on 4/1/10, be withdrawn, so that a new amendment could be presented.

[3:07:11 PM](#)

REPRESENTATIVE SEATON moved to withdraw proposed Amendment 1, labeled 26-LS0309\O.3, Mischel, 4/1/10.

[There being no objection, proposed Amendment 1 was withdrawn.]

The committee took an at-ease from 3:07 p.m. to 3:09 p.m.

[3:09:55 PM](#)

REPRESENTATIVE SEATON moved to adopt Amendment 2, labeled 26-LS0309\O.8, Mischel, 4/5/10, which read:

Page 2, line 12:

Delete "and"

Insert "in this sub-subparagraph, "parent" means a biological or adoptive parent or a legal guardian of the person;"

Page 2, line 14:

Delete "harm, homelessness, or economic hardship,"

Insert "harm or homelessness"

Page 2, line 17, following "living;":

Insert "and"

(iv) if requested by the department, agrees to reasonable terms for resuming state custody that may include matters relating to the person's education, attainment of a job or life skills, or other terms found by the court to be reasonable and in the person's best interest;"

Page 3, line 19:

Delete "AS 47.14.900"

Insert "AS 47.14.400"

CO-CHAIR KELLER objected for discussion.

CO-CHAIR KELLER explained that proposed Amendment 2 would add a further definition of parent, on page 2, line 12, and would delete the term, "economic hardship" on page 2, line 14 as it had been determined to be indefinable in the context.

[3:11:21 PM](#)

CO-CHAIR KELLER pointed to page 2, line 17, and explained that the insert would allow the Department of Health and Social Services (DHSS) to set terms on any placement back into foster care.

[3:12:12 PM](#)

CO-CHAIR KELLER directed attention to page 3, line 19, and noted that this corrected a typographical error.

[3:12:33 PM](#)

REPRESENTATIVE GARA reiterated that DHSS could now impose conditions for the child's best interest on a reentry placement into foster care.

[3:13:00 PM](#)

CO-CHAIR KELLER removed his objection. There being no further objection, Amendment 2 was adopted.

[3:13:22 PM](#)

REPRESENTATIVE SEATON moved to adopt Amendment 3, labeled 26-LS0309\0.10, Mischel, 4/6/10, which read:

Page 1, line 1:  
Delete "**and**"

Page 1, line 2, following "**children**":  
Insert "**; and providing for an effective date**"

Page 3, following line 19:  
Insert a new bill section to read:  
"**\* Sec. 4.** This Act takes effect January 1, 2011."

[3:13:40 PM](#)

CO-CHAIR KELLER objected for discussion. He explained that proposed Amendment 3 changed the effective date, so that the fiscal impact would be lessened.

[3:13:55 PM](#)

CO-CHAIR KELLER removed his objection. There being no further objection, Amendment 3 was adopted.

[3:14:21 PM](#)

CO-CHAIR KELLER closed public testimony.

[3:14:31 PM](#)

REPRESENTATIVE GARA pointed out that there was also a revised fiscal note.

[3:15:00 PM](#)

REPRESENTATIVE T. WILSON moved to report CSHB 126, 26-LS0309\O, Mischel, 3/30/10, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

There being no objection, CSHB 126 (HSS) was reported from the House Health and Social Services Standing Committee.

[3:15:30 PM](#)

**Confirmation to State Medical Board**

[3:16:08 PM](#)

CO-CHAIR KELLER announced that the next order of business would be for the Confirmation to the State Medical Board for Dr. William Resinger.

WILLIAM RESINGER, Doctor, State Medical Board, stated that he was first appointed to the State Medical Board in [September] 2007, and that he was happy to serve again.

[3:16:53 PM](#)

CO-CHAIR KELLER commended and thanked Dr. Resinger for his efforts on behalf of the state.

[3:17:00 PM](#)

CO-CHAIR HERRON asked about the biggest challenge he had faced on the State Medical Board, and what challenges were upcoming.

DR. RESINGER replied that the day to day oversight of the physicians and other medical personnel was challenging. Looking to the future, he referred to the unknown challenges of the federal health care reform.

[3:18:24 PM](#)

REPRESENTATIVE CISSNA asked Dr. Resinger about ways to address the ongoing challenge to the low number of physicians per capita in Alaska.

[3:19:34 PM](#)

DR. RESINGER agreed that this was a problem. He spoke about the Washington, Wyoming, Alaska, Montana, Idaho Medical Education

Program (WWAMI) for medical students at the University of Washington. He also referred to some federal programs to help re-pay medical school loans.

[3:20:32 PM](#)

CO-CHAIR KELLER reflected on his long friendship with Dr. Resinger.

[3:21:03 PM](#)

REPRESENTATIVE HOLMES also thanked Dr. Resinger for his service.

[3:21:39 PM](#)

CO-CHAIR HERRON moved to report the appointment of Dr. William Resinger to the State Medical Board out of committee. There being no objection, the appointment was reported from the House Health and Social Services Standing Committee.

[3:22:12 PM](#)

**HB 423-POLICY FOR SECURING HEALTH CARE SERVICES**

[3:22:39 PM](#)

CO-CHAIR KELLER announced that the next order of business would be HOUSE BILL NO. 423, "An Act stating a public policy that allows a person to choose or decline any mode of securing health care services, and providing for enforcement of that policy by the attorney general."

[3:23:25 PM](#)

REPRESENTATIVE CARL GATTO, Alaska State Legislature, offered his belief that the passage of the federal health care reform was unconstitutional. He explained that HB 423 was a means to have the U.S. Supreme Court determine whether the federal health care reform act was a violation of the Tenth Amendment. He declared that he was a believer in freedom, and he opined that the Tenth Amendment was written to respect the rights of each state. He shared his belief of various states rights issues in Alaska. He said that an infringement on state rights by the federal government was a violation. He stated that the Tenth Amendment enumerated that whatever was not declared a right by the federal government, became a state's right. He listed 14 states which were requesting the states' attorneys general to pursue this to

the Supreme Court. He noted that 5 other states had expressed they would not go to the Supreme Court. He opined that it was beneficial for Alaska to pursue its own interest, by joining the other 14 states. He stated his desire to have the Supreme Court clearly define the relationship of the Tenth Amendment to the federal health care reform.

[3:30:28 PM](#)

REPRESENTATIVE T. WILSON asked what would be the cost to Alaska.

[3:30:37 PM](#)

REPRESENTATIVE GATTO replied that the Goldwater Institute had offered to "defend the constitutionality of the Health Care Freedom Act [HB 423] at no cost to the state."

[3:31:31 PM](#)

REPRESENTATIVE T. WILSON asked if the lawsuit would prohibit a choice for government insurance.

[3:31:50 PM](#)

THOMAS REIKER, Staff to Representative Carl Gatto, Alaska State Legislature, in response to Representative T. Wilson, said that HB 423 did not preclude people from accepting health care, but it barred the federal government from compelling someone to join a health care system which they did not want to join.

[3:32:17 PM](#)

CO-CHAIR HERRON asked the reason for using the Goldwater Institute.

[3:32:37 PM](#)

REPRESENTATIVE GATTO said that it was just one option. He pointed to the analysis of the fiscal note, which stated that the fiscal impact was indeterminate. He opined that the "cost of not doing something can far exceed the cost of doing something."

[3:33:34 PM](#)

REPRESENTATIVE CISSNA asked if the passage of HB 423 was a choice for health care, or was it removing the option for the state to be a part of the health care plan.

[3:34:31 PM](#)

REPRESENTATIVE GATTO replied that the federal plan was now in place until the Supreme Court ruled otherwise.

[3:34:38 PM](#)

REPRESENTATIVE CISSNA asked if this decision would affect contagious diseases and quarantines.

[3:35:40 PM](#)

MR. REIKER replied that HB 423 gave an individual the right to determine their health care service.

[3:36:22 PM](#)

REPRESENTATIVE CISSNA stated that her constituents wanted health care help, and she asked what the motivation was for HB 423.

[3:37:11 PM](#)

REPRESENTATIVE GATTO, in response, replied that his district was overwhelmingly against the federal health care bill. He asked if individuals should be allowed to choose their health care option. He opined that it was not the responsibility of the federal government to change the health care system.

[3:40:47 PM](#)

REPRESENTATIVE HOLMES pointed to page 2, line 7, and asked about the "injunctive and other appropriate relief" that HB 423 was asking the attorney general to seek.

[3:41:22 PM](#)

REPRESENTATIVE GATTO replied that the attorney general was directed "to pursue, in court, whether or not the Tenth Amendment has been violated. And if so, since there's severability in the law, then he may have to deal with which parts are in violation."

[3:41:45 PM](#)

REPRESENTATIVE HOLMES asked what exactly was being protested.

[3:42:23 PM](#)

MR. REIKER, on behalf of Representative Gatto, said that the Tenth Amendment related to mandate provisions, and that the federal health care reform created unfunded mandates to the states as part of the Medicaid program.

[3:42:53 PM](#)

CO-CHAIR KELLER said that the committee questioning was moving "outside of the scope of the bill." He directed attention to Section 2 and Section 3, and opined that HB 423 was not challenging the entire federal health care reform, but it was challenging the right to choose any mode of health care.

[3:44:16 PM](#)

REPRESENTATIVE HOLMES replied that she had asked the sponsor to explain the bill and that her questions were within those parameters. She strongly stated her opinion that the focus of the bill was not clear. She emphasized that HB 423 did not specifically reference federal health care reform, yet it asked for specific action from the attorney general. She asked what specific action HB 423 was asking.

[3:45:48 PM](#)

MR. REIKER, in response to Representative Holmes, said that HB 423 discussed choice and mode of health care. He pointed to the mandate within the federal health care reform as the target of HB 423. He explained that this affected people who did not have health care and would be forced into buying health care. Secondly, he noted that Medicaid had enforcement provisions which were now the responsibility of the states. Finally, he shared the concern of whether the federal government could force states to impose state level regulations. He opined that Alaskans should have the choice to participate.

[3:47:33 PM](#)

REPRESENTATIVE SEATON reported that some people were unhappy with Medicare, yet were required to pay for that. Pointing to page 1, line 14, he opined that HB 423 was targeted toward Medicare, and he asked the sponsor where the bill specifically

directed the attorney general not to seek liberation from Medicare participation.

[3:48:51 PM](#)

MR. REIKER opined that you have the right to supplemental private insurance, but that you did not have to receive Medicare, even if you pay for it.

[3:49:16 PM](#)

REPRESENTATIVE SEATON, addressing payment for Medicare, asked whether an individual should have to pay, whether they used it or not. He asked if HB 423 would allow individuals to decline the charge for any mode of health insurance.

[3:50:21 PM](#)

REPRESENTATIVE GATTO said that you may have to pay for Medicare, but you don't have to use it. He pointed to the restrictions imposed by Medicare. He opined that individuals had the right to go to any medical facility and to pay for that service.

[3:51:24 PM](#)

REPRESENTATIVE SEATON, in response to Representative Gatto, said that the mandate of the federal health care reform was for an individual to have insurance or pay a fine, but that it did not enforce use of the insurance. He asked how that was any different than Medicare.

[3:52:20 PM](#)

REPRESENTATIVE GATTO said that individuals pay for many services that were not used. He said that HB 423 was a bill about states' rights, and the right of refusal as opposed to the right of acceptance.

[3:53:29 PM](#)

REPRESENTATIVE SEATON replied that Medicare was a federal program, with a federal mandate that an employee pay into the medical system. He asked to clarify that HB 423 required the attorney general to challenge a federal insurance program. He asked about the difference between Medicare and this federal health care program.

[3:54:28 PM](#)

MR. REIKER said that the federal health care program required states to implement state level regulations, although these came from the federal government. He stated that it also set minimum standards for the mandated insurance and care, which was a violation of the Tenth Amendment. He stressed that this was different from Medicare.

[3:55:13 PM](#)

REPRESENTATIVE CISSNA, in response to Representative Gatto, pointed out that Alaskans do not pay state income tax, hence, do not pay for roads, but instead receive money from the state. She opined that there was not a state health plan, but that Medicaid was a payment source for a great deal of the health care in Alaska. She suggested discussions with professionals who understand the new federal program to better understand the costs to Alaska.

[3:57:28 PM](#)

REPRESENTATIVE GATTO replied that there was a state plan [for employees of the state], and that there were private plans. He stated that an individual could decline to be in the state health plan. He admitted that there were many people who did not have coverage. He declared that in his 25 years [working as a paramedic] of transporting patients to emergency rooms, he had never known of a person who was not transported because they could not pay. He declared that the issue of payment was between the patient and the hospital. He said that "we don't have people dying on the streets, we don't have people starving in corners, we don't have people begging up and down the halls, we have plans, we do things." He stated that the [federal] government did not have any money, that all the money sent to Alaska, came from Alaskans. He declared that "we keep sending them money and they send us a smaller percent of it, over and over and over again." He opined that it was better for the state to keep state money and institute its own Medicare plan. He opined that the federal government was forcing Alaska into a plan that was not wanted. He expressed, "I don't want it." He stated "I think I have rights but the federal government is saying I don't." He declared that this was the intent of HB 423. He explained that HB 423 requested the attorney general to represent similar thinking Alaskans in asking if the Tenth Amendment had been violated. "It's not about bills, it's not about health care, it's about the Tenth Amendment." He stated

that to not address this on the federal level was tantamount to giving up. He opined that it was an overwhelming precedent for the federal government to determine that an individual must buy a product.

[4:01:49 PM](#)

CO-CHAIR KELLER clarified that the bill would go to House Judiciary Standing Committee for a legal determination.

[4:02:26 PM](#)

REPRESENTATIVE T. WILSON asked if HB 423 was focused on those individuals who were now required to purchase health care.

[4:02:57 PM](#)

MR. REIKER agreed.

[4:04:16 PM](#)

REPRESENTATIVE T. WILSON declared that there was a misconception that people without health insurance had others pay for their health care.

[4:04:48 PM](#)

REPRESENTATIVE GATTO replied that 30 million people did not have [health] insurance, and he opined that 10 million of these people were illegally in the United States. He offered his belief that many people considered it improper to pay health insurance for illegal residents.

[4:05:45 PM](#)

CO-CHAIR HERRON asked if the Department of Law (DOL) had been asked to testify.

[4:06:09 PM](#)

MR. REIKER said that DOL had not been asked.

[4:06:18 PM](#)

MR. REIKER, in response, said that Department of Health and Social Services (DHSS) was not asked to testify.

[4:06:34 PM](#)

CO-CHAIR HERRON asked why other states had filed lawsuits.

[4:06:48 PM](#)

MR. REIKER replied that a group of states had filed the lawsuit together, with the focus on the mandate to buy a private good with private funds. He continued, and explained that this was a violation of the Tenth Amendment and the Commerce Clause of the U.S. Constitution. He added that there were significant portions of the lawsuit which pertained to the unfunded mandate for Medicaid. He pointed out that there were also state level regulations which were imposed by the federal government. He opined that the only option given to the states was to opt out of Medicaid.

[4:08:04 PM](#)

CO-CHAIR HERRON asked to clarify that the complaint focused on the financial burden of expanded Medicaid. He asked the sponsor if he suggested opting out of Medicaid.

[4:08:21 PM](#)

REPRESENTATIVE GATTO said that the lawsuits run parallel courses, and they all dealt with the Tenth Amendment and the Commerce Clause. He asked for clarification of the question.

[4:09:03 PM](#)

CO-CHAIR HERRON asked if the reason for HB 423 was the additional financial burden from the expansion of Medicaid.

[4:09:45 PM](#)

REPRESENTATIVE GATTO replied that the primary issue was the mandate, but that Medicaid, the Commerce Clause, and the Tenth Amendment were all part of the lawsuit. He opined that it was incumbent on Alaska to do its share, and be in the forefront for states' rights. He offered his belief that this was "the time, the place, and the moment in history to address that question because never in history have we had such an enormous impact on our economy." He opined that the federal health care reform would increase the national debt.

[4:11:49 PM](#)

CO-CHAIR HERRON asked to clarify that the attorney general should consider whether the U.S. Congress had the power to regulate health insurance, and commerce in Alaska.

[4:12:18 PM](#)

REPRESENTATIVE GATTO replied that the federal government did regulate commerce. He expressed disagreement with a mandate to purchase a specific product. He stated that Alaska, alone, could not nullify a federal law.

[4:14:00 PM](#)

CO-CHAIR HERRON asked to clarify whether this was an issue of states' rights, or a violation of individual rights.

[4:14:27 PM](#)

MR. REIKER replied that it was both. He offered his belief that the Tenth Amendment guaranteed individual and states' rights. He opined that the right to regulate insurance was reserved, under the Tenth Amendment, to the states, as it was not specifically enumerated to the federal government. He opined that purchasing the mandated insurance was a violation of individuals' rights to control their own property. He offered his belief that the Alaskan constitution guaranteed Alaskans the right to "fruits of their own labor."

[4:15:43 PM](#)

REPRESENTATIVE SEATON stated that the bill limited what the state was able to do. He offered quarantine as an example and asked if this bill, which would allow the option for health care, would supersede any prior legislation that allowed for quarantine.

[4:16:44 PM](#)

REPRESENTATIVE GATTO replied that, in the interest of protecting the public, quarantine would happen. He said that HB 423 did not address the right to enforce quarantine if an individual declined.

[4:17:38 PM](#)

MR. REIKER said that the actual quarantine would not be health care, but that only the services received afterward were health care. He stated that HB 423 would allow a person the right to refuse health care services and choose death from a quarantined disease, but not to violate the quarantine.

[4:18:04 PM](#)

REPRESENTATIVE SEATON referenced Alaskan legislation which allowed the state to quarantine for health care services, and he questioned if HB 423 would supersede that. He also asked if HB 423 would supersede involuntary commitment for mental health services.

[4:18:56 PM](#)

CO-CHAIR KELLER reflected that these questions were best answered by the House Judiciary Standing Committee. He opined that the central statement of HB 423 was the right for Alaskans to choose whether or not to have health care, and not to be penalized if they choose not to have it. He stated that 41 states had legislation against this penalty. He opined that quarantine was not a health care issue, but instead a disease control issue.

[4:20:05 PM](#)

REPRESENTATIVE SEATON replied that several bills had been passed which were based on health care. He pointed out that HB 423 specifically stated that an individual could decline those services. He asked if HB 423 would supersede those earlier bills and allow individuals to "decline any mode of health care service." He asked for an opinion from Legislative Legal and Research Services as to the effect of HB 423.

[4:22:00 PM](#)

REPRESENTATIVE SEATON directed a question to Dennis Bailey, and asked if HB 423 would supersede previous legislation, which allowed quarantine for health reasons, and "that a person has the right and is free to choose or decline any mode of securing health care services."

[4:22:50 PM](#)

DENNIS BAILEY, Attorney, Legislative Legal Counsel, Legislative Legal and Research Services, replied that the bill was not clear

on that issue. He opined that securing health care services could include the quarantine services.

[4:23:20 PM](#)

CO-CHAIR KELLER asked to clarify that securing health care services was an umbrella which included quarantine.

[4:23:38 PM](#)

MR. BAILEY replied that HB 423 was unclear as to a distinction between quarantine and the health care services during the quarantine. He suggested that this be clarified.

[4:24:07 PM](#)

CO-CHAIR KELLER replied that securing health care services implied volition and individual choice, whereas quarantine was for the greater good of the community.

[4:24:36 PM](#)

REPRESENTATIVE HOLMES asked if the bill language would also conflict with the requirement of immunizations for kids when attending school.

[4:25:11 PM](#)

REPRESENTATIVE GATTO replied that immunizations were not required unless you wanted to enroll your children in school. He said that a variety of laws declared that an individual may not harm another, and he declared that contagious diseases were included under these laws.

[4:26:45 PM](#)

MR. BAILEY directed attention to page 2, Section 3(e)(1), and stated that immunization would fall under health care services.

[4:28:05 PM](#)

CO-CHAIR KELLER asked if quarantine would also be included in this definition.

MR. BAILEY replied that it was not addressed directly in the bill, and he was not able to determine whether quarantine was a health care service.

[4:28:37 PM](#)

REPRESENTATIVE SEATON asked if involuntary psychiatric commitment would also be included in health care services.

MR. BAILEY replied that mental health care was included in the definition of health care service; therefore involuntary psychiatric commitment could not be excluded from the meaning in the bill.

[4:30:26 PM](#)

MR. REIKER said that this was statute, and could be amended now or in future legislation.

[4:30:52 PM](#)

REPRESENTATIVE T. WILSON asked if this bill language was copied from existing statute in another state.

MR. REIKER replied that the bill language was from an Idaho statute.

[4:31:11 PM](#)

REPRESENTATIVE GATTO read from AS 18.15.385 which was entitled "Isolation and quarantine." He opined that the statute dealt with quarantine, and that HB 423 did not void state statutes.

[4:32:06 PM](#)

REPRESENTATIVE SEATON pointed out that a subsequent statute did modify previous statutes, so that HB 423 would indeed supersede the earlier statutes.

[4:32:46 PM](#)

REPRESENTATIVE CISSNA remarked that not having representatives from the departments and from health administration to answer questions made it difficult for any responsible decisions to be made. She asked if department representatives had reviewed the bill and commented on the possible outcome.

[4:35:09 PM](#)

MR. REIKER, in response to Representative Cissna, said that currently under Alaska law, HB 423 has been the de facto policy. He explained that the federal health care reform mandate had changed Alaska law, therefore HB 423 was challenging it.

[4:36:04 PM](#)

REPRESENTATIVE CISSNA asked if they had worked with DHSS to determine any effects to the state. She pointed out that HB 423 was copied from another state's legislation.

[4:36:30 PM](#)

REPRESENTATIVE GATTO replied that the level of health care in Alaska "is what it is" until the federal mandate to purchase a specific product. He declared that it was not necessary to contact DHSS, as the statute model addressed the Tenth Amendment, not health care.

[4:37:43 PM](#)

CO-CHAIR HERRON asked if the attorney general or the governor had indicated they were going to move forward with action against the federal government, regardless of the outcome of HB 423.

[4:38:14 PM](#)

REPRESENTATIVE GATTO replied that he had talked with the attorney general, who "was notably quiet." He opined that the attorney general was not at liberty to disclose anything about his investigation.

[4:39:19 PM](#)

CO-CHAIR KELLER closed public testimony.

[4:39:47 PM](#)

CO-CHAIR KELLER opined that HB 423 was not a health and social services bill, but was a bill about the freedom to choose where an individual received health care service.

[4:40:27 PM](#)

REPRESENTATIVE CISSNA expressed her concern, especially as she had not heard from DHSS. She declared that she still had questions.

[4:41:37 PM](#)

CO-CHAIR KELLER asked to clarify that Representative Cissna would ask DHSS if the attorney general's involvement would affect health care.

[4:41:56 PM](#)

REPRESENTATIVE SEATON said that HB 423 was an Alaskan statute, not federal, which related to the freedom to choose or decline health care services in Alaska. He referred to Mr. Bailey's testimony that it did have interactions with how health care was practiced. He expressed the need to hear from DHSS. He stated that he was focused on the impact of HB 423 on Alaska and its health care.

[4:44:05 PM](#)

REPRESENTATIVE SEATON, in response to Co-Chair Keller, said that the HB 423 language was for both the freedom to choose to secure or choose to decline health care services.

[4:44:24 PM](#)

CO-CHAIR KELLER said that health care services were defined on page 2. He opined that it not take away the choice of the individual.

[4:44:45 PM](#)

REPRESENTATIVE SEATON emphasized to Co-Chair Keller that Dennis Bailey, attorney, had stated that was not correct. He pointed to Mr. Bailey's testimony which stated that involuntary commitment to a mental health facility, vaccinations, and immunizations were included in the bill. He opined that the bill covered all the health care services offered by the state.

[4:45:48 PM](#)

CO-CHAIR KELLER said that the health care services definition on page 2 was for care of physical or mental disease. He opined that this was the care of society, not the care of a person. He

allowed that he had a different interpretation than Representative Seaton.

[4:46:18 PM](#)

CO-CHAIR HERRON requested to hold HB 423.

[4:46:53 PM](#)

CO-CHAIR KELLER requested a vote on HB 423.

[4:47:07 PM](#)

REPRESENTATIVE T. WILSON said that HB 423 allowed a person the right to choose any mode of health care services. She opined that the bill was about the right to choose whether or not to have health care coverage. She declared a desire to keep that option open. She said that HB 423 did not solve the dilemma of non-payment for emergency room use. She offered her belief that the attorney general would determine whether or not there was a case to be made against the federal government. She opined that HB 423 reflected the concern of Alaskans.

[4:49:17 PM](#)

REPRESENTATIVE SEATON, in response, emphasized that nothing in HB 423 mentioned the federal government. He pointed out that it stated the attorney general would take the appropriate action to defend HB 423 against the DHSS. He emphasized that HB 423 did not mention the Tenth Amendment, or anything against the federal government. He offered his belief that it was necessary for DOL and DHSS to testify as to the effect of HB 423 on health care services in the state of Alaska. He opined that a lawsuit and the imposition of the Tenth Amendment were solely interpretations of the bill, and not in the bill language. He stated that he could not support HB 423 without further testimony to its implications.

[4:51:16 PM](#)

REPRESENTATIVE LYNN said that everyone wanted good health care, but he opined that the question was to the constitutionality. He opined that only the US Supreme Court could make that determination, and it would be necessary for a case to be brought to the Supreme Court. He urged that HB 423 be forwarded to the House Judiciary Standing Committee for further discussion.

[4:52:52 PM](#)

CO-CHAIR KELLER opined that HB 423 was a very simple statement for the attorney general to defend the right to choose.

[4:54:00 PM](#)

The committee took a brief at ease.

[4:55:39 PM](#)

REPRESENTATIVE LYNN stated a necessity to advise the attorney general whether to move forward with a lawsuit.

REPRESENTATIVE CISSNA expressed her concern that, as this was the first hearing for this bill, she had not heard all sides. She stated the necessity for knowledgeable testimony from DHSS and she expressed a concern for unintended consequences. She pointed out that "going slow is a good process in this where we're actually affecting people's lives."

[4:57:56 PM](#)

CO-CHAIR KELLER opined that this was stopping the process, and he was unwilling to do that.

[4:58:41 PM](#)

REPRESENTATIVE T. WILSON offered her belief that it was necessary to keep the process moving.

[4:59:27 PM](#)

REPRESENTATIVE GATTO said that he was trying to be responsible and he offered that it was appropriate to delay HB 423 for one more meeting.

[5:00:15 PM](#)

REPRESENTATIVE SEATON agreed, but he requested that DHSS be available for testimony to the health care ramifications of HB 423. He opined that it was not a function of the legislature to institute a lawsuit. He emphasized that a statute had long term implications.

[5:01:46 PM](#)

CO-CHAIR KELLER asked that Representative Seaton introduce any amendments to the bill.

[5:02:40 PM](#)

[HB 423 was held over.]

[5:02:53 PM](#)

**ADJOURNMENT**

There being no further business before the committee, the House Health and Social Services Standing Committee meeting was adjourned at 5:02 p.m.