ALASKA STATE LEGISLATURE
SENATE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

March 16, 2009
1:37 p.m.

MEMBERS PRESENT

Senator Bettye Davis, Chair
Senator Joe Paskvan, Vice Chair
Senator Johnny Ellis
Senator Fred Dyson

MEMBERS ABSENT

Senator Joe Thomas

COMMITTEE CALENDAR

SENATE BILL NO. 133
"An Act creating a statewide electronic health information exchange system; and providing for an effective date."
HEARD AND HELD

SENATE BILL NO. 61
"An Act establishing an Alaska health care program to ensure insurance coverage for essential health services for residents of the state, the Alaska Health Care Board to administer the Alaska health care program and the Alaska health care fund, the Alaska health care clearinghouse to administer the Alaska health care program under the direction of the Alaska Health Care Board, and eligibility standards and premium assistance for health care coverage of persons with low incomes; creating the Alaska health care fund; providing for review of actions and reporting requirements related to the health care program; and providing for an effective date."
MOVED OUT OF COMMITTEE 3/13/09

PREVIOUS COMMITTEE ACTION

BILL: SB 133
SHORT TITLE: ELECTRONIC HEALTH INFO EXCHANGE SYSTEM
SPONSOR(s): SENATOR(s) PASKVAN

03/02/09	(S)	READ THE FIRST TIME - REFERRALS
03/02/09	(S)	HSS, FIN
03/16/09	(S)	HSS AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

JAKE HAMBURG
Staff to Senator Paskvan
Alaska State Legislature
Juneau, AK
POSITION STATEMENT: Commented on SB 133 for the sponsor.

PAUL SHERRY, President
Alaska Electronic Health Network (AeHN)
Alaska Native Tribal Health Consortium
POSITION STATEMENT: Supported SB 133.

BILL STEWART, Deputy Commissioner
Medicaid and Health Care Policy
Department of Health and Social Services (DHSS)
POSITION STATEMENT: Neutral position on SB 133.

REBECCA MADISON, representing herself
Fairbanks, AK
POSITION STATEMENT: Supported SB 133

PAT LUBY, Advocacy Director
AARP
Juneau, AK
POSITION STATEMENT: Supported SB 133.

ACTION NARRATIVE

1:37:53 PM
CHAIR BETTYE DAVIS called the Senate Health and Social Services Standing Committee meeting to order at 1:37 p.m. Present at the call to order were Senators Dyson, Paskvan, Ellis and Davis.

SB 133-ELECTRONIC HEALTH INFO EXCHANGE SYSTEM

CHAIR DAVIS announced consideration of SB 133.

1:39:00 PM
SENATOR PASKVAN, sponsor of SB 133, said this bill seeks to modernize Alaska's health care IT infrastructure and save the state's health care system about $250 million per year and about $10-$12 million per year for Medicaid by developing a secure electronic health information exchange system to improve the safety, cost effectiveness and quality of health care in Alaska. Many providers use only paper-based systems which contribute to

dangerous drug interactions, misdiagnoses, costly delays and duplicate testing and administrative overhead.

He said:

> This standards-based electronic health network will allow individual Alaskans to have their own personal health record and to authorize their health care providers to exchange electronic medical records in a timely and secure manner. A number of federal and state laws already provide standards protecting a patient's privacy as to that personal medical information and that is the Health Insurance Portability and Accountability Act (HIPAA) [that] most directly and extensively impacts the health information exchange system. This legislation also provides strict standards to secure and protect the confidentiality of individual identifying health information of the patient.

JAKE HAMBURG, staff to Senator Paskvan, deferred to Paul Sherry, who has been working with stakeholders for a number of years on this topic to provide some background information on the issue.

1:41:14 PM
PAUL SHERRY, President of Alaska Electronic Health Network (AeHN), Alaska Native Tribal Health Consortium, said he has been a health care administrator in the state for about 30 years and offered a slide presentation as follows:

Slide 1 – Alaska health care organizations are making large investments in moving from paper to electronic medical records. The Alaska Native Medical Center, alone, plans to spend $20 million on it. They estimate that only 20-30 percent of providers use electronic records today, but it's growing. The provider community in Alaska is very much behind supporting a state wide exchange network so that patient records can be available any time a patient presents for care. The state is a key partner in this overall effort.

Slide 2 – The earliest health information exchange (HIE) started in the 1990s, and it is part of an effort to build these exchanges around the country. There are now over 50 HIEs in various states.

Slide 3 – The federal government envisions a loose network of the various federal health agencies connecting to state health information exchanges.

Slide 4 – The main reason for doing this is that while Alaskans have some great organizations, it is difficult for records to follow patients and as a result, there is a lot of redundancy in procedures and possible errors such as medication conflicts. Providers see lower costs for data management with this type of system and public health organizations have been able to expedite their response with help from these kinds of systems.

Slide 5 – The concern is patient privacy. This is not the creation of a centralized patient record databank; all the providers keep their own records. The availability of patient data happens through the exchange. HIEs makes it possible for patients to opt out, and there are high penalties for data breaches.

Slide 6 – The final big reason for moving ahead with these is cost savings. A series of reports show that once an EMR system is deployed, the industry can save a net 5 percent of total expenses for all providers, which is huge money – a quarter billion dollars for the state, and north of $10 million for Medicaid.

Slide 7 - His HIE is called the Alaska eHealth Network (AeHN) and it is a five-year $35-million effort. To date they have secured $12 million from mostly federal sources. A half million was appropriated by this body last year.

Slide 8 – Shows the stakeholders who will be connected to the network.

Slide 9 – Picture of sample of online record (screen shot) integrating pictures, lab reports, imaging reports and other reports, vital signs, immunizations and allergies.

Slide 10 – AeHN incorporated with nonprofits last fall with the Native Health System, the private hospitals, the primary care providers, Primera as a payer, the department, the federal agencies and the private physician community, and the AARP who is interested in this from a public sector view.

Slide 11 – Presented Board members with their various skills.

Slide 12 - Progress to date: clarity at the national level about the privacy standards to insure technological inter-operability among these systems. GCI has been awarded a contract for technical network design, and AeHN has $10 million in federal money available to buy the lion's share of the technology to get into this network. Now they need to add providers to it.

Slide 13 – The next steps 2009 -1010: they need to designate a non-profit entity to be the HIE organization for the state. They need to get $20 million or more from the stimulus package (from the $19 billion available for HIT) for software.

Slide 14 – They have asked the legislature for stimulus matching funds of $1.3 million this year and $1.0 million in. The farther out you go, the more the state is required to match. Once the funds are acquired, an RFP will be put out to providers of the software and to make sure the systems align with the state's various data centers it uses for health care. Finally, their vision is that providers can then connect with various support systems, like voice over Internet and teleconferencing, and get reimbursement through FCC funding in the future.

Slide 15 – Finally, they need to insure a sustainability plan; they estimate that the network will cost around $5 million, the majority of which would be subcontracts for maintaining this software. Their draft operating budget called for stakeholders to share the costs based on their use.

Slide 16 – SB 133 is modeled after what some other states have done.

Slide 17 – Itemized letters of support from state and federal delegation.

Slide 18 – In summary, he urged passage of SB 133 with DHSS oversight and matching funds.

Slide 19 – The outcomes over the long run are: timelier access to safer health care for the Alaska community and significant savings to the state directly for the health care services it operates.

He added that Rebecca Madison, Network Director, was available for questions. The key question is clarity about the respective roles of the department and the AeHN; also, a number of minor issues have already been identified that could provide greater

clarity. What the state's long term recurring contribution will be also needs addressing.

1:54:38 PM
SENATOR DYSON said he wanted to hear what the administration has been doing on this issue.

SENATOR ELLIS said he recently conducted a constituent forum, and found one sole practitioner who was "completely beside herself with fear" about what the federal stimulus package will require for electronic medical records. She had no doubt about the nationwide efficiencies this technology would provide, but from a sole practitioner standpoint it was "a pain" and completely counter-intuitive. He asked if this would be a help or a hindrance to sole practitioners, and pointed out that it looks like they will have to "pony up" a significant amount of money.

MR. SHERRY responded that the Physicians' Alliance has been put together to work with the Alaska physician provider community to move forward, and there are challenges to any practice to purchase and deploy an electronic health records system. There is a one-time deployment cost of over $25,000 to buy the system, but future participation has been estimated at less than $1,000 per year per practice. The real barrier is that first step. The stimulus legislation offers some assistance, both loans and grants, to providers to acquire the systems. The stimulus bill also has incentives to help them recoup their investment. He realizes that older providers are not as comfortable with the electronic format while younger physicians expect it.

SENATOR ELLIS asked if Mr. Sherry would work with him to develop an answer to this type of concern.

MR. SHERRY said he would be happy to do that. He added that they think some entity needs to provide hands-on technical assistance to providers to go electronic; and the AeHN can provide it for Alaskans.

1:59:28 PM
BILL STEWART, Deputy Commissioner, Medicaid and Health Care Policy, Department of Health and Social Services (DHSS), said new opportunities are presenting themselves with the stimulus bill including a grant program for states to develop this type of health information exchange, a state administered loan program for providers to purchase equipment needed for a health system exchange, and a state administered financial assistance

program for Medicaid providers for the same. But like all new federal opportunities, there is considerable uncertainty about how these programs will work. The Obama administration has made it clear that accountability for all funds spent remains with the entity to which they are given; that is, the state will be accountable no matter to whom the funds are assigned.

He said the department needs adequate flexibility to oversee and understand this effort. It's important that the authority given to the department matches its responsibilities. They want to avoid any confusion about who is responsible for each aspect of the work. They have concerns with the alignment of the authority given to the nonprofit entity and the level of responsibility remaining with the department. So for SB 133 to work as intended, some renumbering is needed as well as another look at where both the responsibility and the accountability are placed. Also, the relationship between the nonprofit entity and the state needs to be clarified; it can't stand alone as an unsupervised entity.

MR. STEWART said he is highly supportive of the initiative to move electronic health records forward; health information exchange and similar technologies are the wave of the future and will save the state a lot of money. However, the department is neutral on this bill at this point.

2:02:39 PM
SENATOR DYSON said his office and the Department of Health and Social Services (DHSS) have worked together on a comprehensive on-line medical system aimed at the informed medical consumer and asked if this system is separate from that.

MR. STEWART replied yes.

SENATOR DYSON asked what he wanted changed in SB 133.

MR. STEWART said the big concern is aligning accountability and authority more clearly. It seems to give a lot of authority to the non-profit entity, but a lot of the responsibility remains with the state.

SENATOR DYSON asked if he was saying that the department does not have as much control over where this is going as he would like.

MR. STEWART replied yes.

2:04:48 PM
CHAIR DAVIS asked if the department has prepared anything in writing regarding their concerns with this bill.

MR. STEWART replied no; he is working on it.

CHAIR DAVIS asked if he considered the department a part of this network.

MR. STEWART replied yes.

2:06:34 PM
CHAIR DAVIS asked if the stimulus package had small "pots of money" going to agencies other than state or municipal governments.

MR. STEWART replied yes; but ultimately the responsibility for all of the money lies with the state government.

CHAIR DAVIS asked him to provide her with the guidelines.

MR. HAMBURG agreed with the department on a couple of their concerns. He said that language on page 2, lines 23-26, in subsection (i) could be amended to include language that explicitly states whom from the state government will be included on the advisory board as well as more direct language that requires participation.

A second change could be some clarification of the department's responsibilities versus the nonprofit entity in subsection (1)(b)-(2)(f) to show they those responsibilities belong to the non-profit.

CHAIR DAVIS asked if they were working on a committee substitute.

MR. HAMBURG replied yes.

2:08:57 PM
MR. HAMBURG went through the bill by section:

Section 1 lays out intent language that includes insuring that the confidentiality of a patient's identifying health information is secure. Improving health care quality and reducing health care costs was their main concern in drafting this language.

Section 2 is the meat of the bill and directs the department to designate a qualified non-profit to plan and develop the health information exchange system. Part of the reason for designating a nonprofit to do it is so that the Department of Health and Social Services didn't have to reinvent the wheel when a non-profit may have spent years already doing it. Also a nonprofit could be politically independent, widely representative of the major stakeholders, and operate transparently. Which local and state government interests to be included in that advisory board could be clarified as well.

MR. HAMBURG said language on page 2, lines 23-26, talks about a smooth process and a long-lasting implementation for the State of Alaska. Those functions would include installation and training on the use of the system for those who are too small to afford it. All stakeholders need to have the ability to participate in the system, which will always be in the state of evolution.

2:12:00 PM

He continued to privacy and security aspects. Page 4, lines 7-30, provide additional privacy and security requirements beyond those already existing in state and federal law; lines 7-10 direct the department to establish appropriate security standards to protect the individually identifiable information; lines 11-13 require controls over the individual confidential information, and this language was borrowed from Texas legislation. Lines 14-15 require an electronic audit system to determine access points and where information is being shared; lines 16-17 require that the system always meet the most stringent applicable federal and state privacy laws. This specific language is from Vermont legislation. Page 4, lines 18-21, prohibit the release of information for anything other than treatment or billing of the patient. Line 24 requires that the system allow for a patient to opt out. Lines 25-26 make consent required to distribute a patient's record; lines 27-28 require that a patient be notified of any violation of the confidentiality; and line 29 requires that a patient be able to view an audit report displaying who has accessed or touched their personal records at any time.

MR. HAMBURG said additional privacy records can be found on page 5, lines 5-8, that requires that any contract entered into to carry out HIE must require the contractor to meet applicable federal and state privacy and security standards. Other federal laws are applicable that govern health information technology, he said, and he would be happy to go through some of those.

MR. HAMBURG said the biggest act that protects privacy is the Health Insurance Portability and Accounting Act (HIPAA). Some of the privacy protections in SB 133 describe that a patient is able to obtain a copy of their health record at any time; they can request corrections of errors; they can receive an accounting of how their information is being used; they can request limits on access to and additional protections for particularly sensitive information; they can request confidential communications; and they can complain to a facilities' privacy officer if there are any problems and they can pursue a complaint with the U.S. Department of Health of Human Services.

2:15:35 PM
MR. HAMBURG said there are many other privacy protections.

CHAIR DAVIS said he was probably referring to federal protections and asked if anything in the bill says the state would have the authority to do the same.

MR. HAMBURG answered yes; language on page 5, line 5, says:

> A contract to carry out the purposes must require that the contractor meet applicable federal and state requirements for protecting health information, privacy and security, and nationally recognized standards for interoperability of health information technology.

Also language on page 4, lines 16-17, says:

> ...meet the most stringent applicable federal and state privacy laws governing the protection of the information contained in the system.

CHAIR DAVIS called for public testimony.

REBECCA MADISON, representing herself, supported SB 133 and was available for questions. She is part of the Alaska Health Network in Fairbanks.

2:17:50 PM
PAT LUBY, Advocacy Director, AARP, supported SB 133. He said that health IT has enormous potential for reducing medical errors, increasing access to medical records in emergencies, reducing duplication of tests and redundant paperwork, engaging

consumers in managing their own care, and minimizing inappropriate institutionalization; and it will ultimately help providers to focus on patients instead of paperwork.

CHAIR DAVIS asked Mr. Sherry if he knew of any doctors already doing something similar to this.

MR. SHERRY replied that a private physicians' group, the Alaska eHR Alliance, in Anchorage is working collectively to help get electronic health records used more broadly in the physician community. They have agreed to come into this network.

2:20:42 PM
SENATOR PASKVAN asked him to expand on the federal match and any dates that may be applicable for state's contribution in order to participate.

MR. SHERRY replied that clearly the stimulus is trying to get action in '09, and he expects the Office of the National Coordinator that is handling all this money should be releasing their scenario for distributing funds soon; so he wants to be in a position to make application for those funds this spring or summer. In early years the match requirement is substantially less for the state, but it increases with each year. Their target is about $20 million in federal stimulus money to the state's revenue stream; $1.3 million in state match will increase the state's competitiveness for other funding streams. He informed them that he is going after as many different sources of local and other contributions as possible for this. He expects that the tribal health organizations should be able to contribute soon. This thing can be moved a whole lot faster if all the stakeholders put in their resources.

MR. SHERRY commented that this is a rapidly developing front, and based on discussions with department, they believe some restructuring in the bill would provide greater clarity of responsibility and how various stakeholders are represented; and he is happy to continue working on that.

2:23:45 PM
CHAIR DAVIS closed public testimony and said she would hold SB 133 until they get a CS to consider.

There being no further business to come before the committee, Chair Davis adjourned the meeting at 2:24 p.m.