

**ALASKA STATE LEGISLATURE
ADMINISTRATIVE REGULATION REVIEW COMMITTEE**

March 20, 2012

1:32 p.m.

MEMBERS PRESENT

Senator Hollis French, Chair
Representative Kurt Olson, Vice Chair
Senator Thomas Wagoner
Senator Bill Wielechowski
Representative Chris Tuck

MEMBERS ABSENT

Representative Carl Gatto

COMMITTEE CALENDAR

PROPOSED CHANGES in 12 AAC 56.115 - PLEASURE CRAFT EXEMPTIONS

- HEARD

PROPOSED CHANGES in 7 AAC 70.110 - ADDITIONAL REQUIREMENTS FOR PROVIDING ALCOHOL AND DRUG DETOXIFICATION SERVICES

- HEARD

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

CURTIS THAYER, Deputy Commissioner
Department of Commerce, Community and Economic Development and
Chair, Board of Marine Pilots
Anchorage, AK

POSITION STATEMENT: Provided information related to the regulation changes in 12 AAC 56.115.

CARTER WHALEN, President
Alaska Marine Pilots
Dutch Harbor, AK

POSITION STATEMENT: Raised questions regarding the regulation changes in 12 AAC 56.115.

CAPTAIN ROBERT WINTER, Marine Pilot
Southeast Alaska Pilots Association
Ketchikan, AK

POSITION STATEMENT: Questioned the regulation changes in 12 AAC 56.115.

TERI KEKLAK, Manager
Program Integrity and Medicaid Services
Division of Behavioral Health
Department of Health and Social Services (DHSS)
Anchorage, AK

POSITION STATEMENT: Provided information regarding 7 ACC 70.110.

PAUL FINCH, PA representing himself
Fairbanks, AK.

POSITION STATEMENT: Testified in support of changing 7 ACC 70.110 to authorize physician assistants to supervise nurses.

ROBERT R. THOMAS, PA representing himself
Anchorage, AK

POSITION STATEMENT: Testified in support of changing 7 ACC 70.110 to authorize physician assistants to supervise nurses.

JON SHERWOOD, Medical Assistance Administrator
Department of Health and Social Services (DHSS)
Juneau, AK

POSITION STATEMENT: Provided information regarding 7 ACC 70.110.

ACTION NARRATIVE

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CHAIR HOLLIS FRENCH called the Administrative Regulation Review Committee meeting to order at 1:32 p.m. Present at the call to order were Representatives Tuck and Olson and Senators Wielechowski and Chair French. Senator Wagoner arrived soon thereafter.

Proposed Changes in 12 AAC 56.115 - Pleasure Craft Exemptions

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CHAIR FRENCH announced the first order of business would be consideration of the proposed changes to 12 AAC 56.115 by the Board of Marine Pilots.

SENATOR WAGONER joined the committee.

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CHAIR FRENCH asked Mr. Thayer to summarize the actions the Board of Marine Pilots recently took with regard to regulations dealing with marine pilots and foreign pleasure craft.

CURTIS THAYER, Deputy Commissioner, Department of Commerce, Community and Economic Development (DCCED) Commerce and Chair, Board of Marine Pilots, reviewed the composition of the seven member board and clarified that he was speaking as a board member only.

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MR. THAYER discussed the governor's request for departments to review regulations with the idea of becoming more business friendly, and the Division of Corporations, Business and Professional Licensing decision to introduce four amendments to 12 AAC 56.115 during the November 9, 2011 meeting of the Board of Marine Pilots.

He explained that the first amendment, 12 AAC 56.115(a)(3)(H), revises how the division addresses applications for pilotage exemptions for foreign pleasure craft. Under current statute a foreign pleasure craft under 175 feet that wants a pilotage exemption has to first get a certificate of financial responsibility (COFR) from the Department of Environmental Conservation (DEC) and then submit the application through the marine pilot coordinator. The proposed change allows the applications to be submitted simultaneously. Nothing in the application or requirements was changed, and the Board of Marine Pilots still has the final say on granting the exemption.

CHAIR FRENCH asked if the country of flagging has any bearing on the board's decision-making process for granting exemptions.

MR. THAYER said no. Responding to further questions, he clarified that the regulation applies to vessels whose keel was laid in some country other than the United States.

CHAIR FRENCH asked if most of these vessels were owned by U.S. citizens.

MR. THAYER confirmed that many are U.S. owned.

CHAIR FRENCH asked how many exemptions are granted each summer.

MR. THAYER replied the number fluctuates but on average, the number is 20.

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REPRESENTATIVE OLSON asked how long it takes to get an exemption under the current process.

MR. THAYER replied it can take up to two weeks.

REPRESENTATIVE OLSON commented that the time-savings would be meaningless to vessels that plan their itineraries a year or two in advance.

MR. THAYER responded that a delay of a week or two can be very meaningful to smaller yachts that do not make plans well in advance. He noted that there had been instances where owners were unaware of the requirements and arrived in Ketchikan without having gone through the process.

REPRESENTATIVE OLSON asked what it would cost for a 175 foot vessel to spend two months in Alaska waters.

MR. THAYER replied he would have to follow up with the exact numbers but the cost is based on the length overall (LOA) of the vessel. He noted that the board also addressed a regulation about how to determine vessel length.

REPRESENTATIVE OLSON questioned whether it might not be more efficient to structure the fee schedule to accommodate last-minute applications. He opined that doubling the fee on a multi-million dollar vessel would not discourage the owner from making the trip.

MR. THAYER said that was not contemplated in the regulations that were passed by the board.

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SENATOR WAGONER asked how many vessels apply for an exemption every year and the average length of stay.

MR. THAYER replied about 20 yachts receive exemptions and some stay all summer.

SENATOR WAGONER asked if any agency supervised or controlled the amount of fish these yachts take from Alaska waters.

MR. THAYER responded that was outside the purview of the Board of Marine Pilots, but fish and wildlife regulations were provided in the application package.

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REPRESENTATIVE TUCK asked what reasons would cause DEC to deny an exemption for a small vessel.

MR. THAYER replied there probably were none; the certificate of financial responsibility (COFR) is required by the Coast Guard and most vessels carry one automatically.

REPRESENTATIVE TUCK asked what reasons would cause the board to disapprove an exemption.

MR. THAYER replied there are numerous reasons, but very few are actually rejected. He explained that consideration is given to past violations, qualifications of the crew, experience in Alaska waters, type of vessel, and insurance. He noted that charter vessels were never exempted.

REPRESENTATIVE TUCK asked if there was a difference between an over 175 foot private vessel, commercial vessel, and charter vessel.

MR. THAYER clarified that the exemption applies only to foreign hulled vessels that are less than 175 feet in length, and that charter and commercial vessels do not qualify for a pilotage exemption.

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SENATOR WIELECHOWSKI asked how many passengers are typically on board these vessels.

MR. THAYER estimated that a 150 foot yacht would probably have 6-10 guests and a professional crew of 3-5.

SENATOR WIELECHOWSKI asked if the crews were trained or qualified marine pilots.

MR. THAYER replied they all have certifications and merchant marine licenses.

SENATOR WIELECHOWSKI asked if prior knowledge of Alaska waters is required.

MR. THAYER said no, but most of the people applying for an exemption have been in Alaska waters at some time in their career.

SENATOR WIELECHOWSKI asked if, for example, someone who cruised in Southeast 20 years ago would be eligible to cruise in the Whittier area.

MR. THAYER said yes, if the board granted an exemption.

SENATOR WIELECHOWSKI asked how much fuel these vessels typically carry.

MR. THAYER estimated the capacity to be up to 5,000 gallons for the vessel plus 50-60 gallons for a tender.

SENATOR WIELECHOWSKI asked if there was specific data as to the expected economic gain from these regulatory changes.

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MR. THAYER said no.

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SENATOR WIELECHOWSKI asked if he thought it would it be safer if these yachts had an Alaska marine pilot aboard.

MR. THAYER replied he follows the statutes, which stipulate that any vessel under 175 feet can apply for an exemption and any vessel larger than 175 feet requires a marine pilot.

SENATOR WAGONER highlighted his marine experience and opined that certification and licensure doesn't necessarily mean a person is a good marine pilot and can navigate.

MR. THAYER responded that the only incident last year that he was aware of was a 100 foot vessel that ran aground while on anchor. It was not a foreign vessel so the board had no jurisdiction over it.

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MR. THAYER reviewed the second amendment, a new paragraph 12 AAC 56.115(a)(4) that stipulates that a copy of the vessel registry will be submitted to the marine pilot coordinator with the exemption application. He explained that this standard document gives the length overall of the vessel and that that number is used to calculate tariffs and fees. The board passed this change 6:1.

The third change amends 12 AAC 56.115(b) and reaffirms the state's right to impose a fine of up to \$10,000 per episode on pleasure craft in compulsory pilotage waters without either a

pilot or an exemption. As a side note, he highlighted that investigation costs are borne by the board, but the fines go to the general fund. This drives up costs for the licensees.

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CHAIR FRENCH asked about the relative economic impact of a fine versus the charges recouped for pilotage services. He asked if each day is a separate violation, and specifically how the fine for a vessel in violation on a continuous 30-day trip compares to the cost to hire a pilot for that same period.

MR. THAYER deferred the latter question to a pilot explaining that the tariffs are negotiated between the pilot association and vessel agents.

CHAIR FRENCH observed that it was a civil fine and that the statute would be construed against the government in favor of the person paying the fine. He opined that unless a specific provision defines each day as a separate violation, the 30-day trip would be just one violation.

MR. THAYER reviewed AS 08.62.190. Penalties, and noted that the fine can be as high as \$30,000 on the second offense.

CHAIR FRENCH reminded Mr. Thayer that he didn't address whether each day is a separate violation.

MR. THAYER offered to follow up after he consulted the Department of Law (DOL).

CHAIR FRENCH observed that legislative counsel, Terri Lauterbach was directing Mr. Thayer to a provision that might shed light on the question.

MR. THAYER cited AS 08.62.040(f) that says, "Each entry into state water in violation of this chapter or AS 08.62.180(b) is a separate violation."

CHAIR FRENCH posed the example of a vessel that enters state waters at Ketchikan and exits 30 days later at Kachemak Bay, and reiterated his opinion that it will be construed against the department to be one violation unless the statute specifically says that each day is a separate violation. He agreed that the fine for a second violation would be \$30,000 and questioned why there should be an opportunity for a second violation.

MR. THAYER responded that the Marine Pilot Association can still charge the vessel for services not rendered so the vessel owner would pay that in addition to the fine.

CHAIR FRENCH pointed out that the state was surrendering that option by eliminating that aspect of the regulation.

MR. THAYER offered his belief that the Marine Pilot Association retains the ability to charge for services not rendered.

CHAIR FRENCH agreed the association can assess a charge, but the regulatory change allows a vessel to get an exemption not having paid. The deleted language says the vessel cannot return until the appropriate charges have been paid.

MR. THAYER said he assumes in that circumstance that the board would discuss the unpaid charges and deny the exemption.

CHAIR FRENCH turned the discussion to safety with the observation that that was why the legislature asked for marine pilots in the first place.

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SENATOR WAGONER stated that it did not matter whether the vessel had a foreign bottom or a U.S. bottom. The issue was safety on the water and that was what the committee should be addressing.

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REPRESENTATIVE OLSON referred to the amendment to 12 AAC 56.115(c) and asked the intent of removing the requirement that the vessel master hold a valid unlimited radar observer endorsement.

CHAIR FRENCH noted that question was in reference to the last regulation change the committee would address.

MR. THAYER read the regulation and explained that the board voted unanimously to table that amendment and send it to a subcommittee. Final action was not taken on that regulation.

SENATOR WIELECHOWSKI questioned whether any thought was given to putting the Board of Marine Pilots under either the Department of Transportation and Public Facilities (DOTPF) or the Department of Environmental Conservation (DEC) instead of the Department of Commerce, Community and Economic Development (DCCED).

MR. THAYER replied he was unaware of any such discussion. He then pointed out that the Division of Corporations, Business and Professional Licensing regulates 40 professional licenses, half of which have a board like the marine pilots so it appropriately fits within commerce. He estimated that foreign pleasure craft regulations were probably five percent of the board's work. He listed the other duties, and opined that if Alaska had regulations and policies in place that encouraged pleasure craft to come to Alaska it would clearly help the small communities in Southeast. Also, when more large and small yachts come to Alaska there's more business for marine pilots and vessel agents. It's about commerce and the board wants to do what it can to streamline welcoming people to Alaska. He noted that the board voted 5:1 on these regulations.

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REPRESENTATIVE TUCK commented that Carnival Cruise Line found that commerce was affected when people did not have a sense of security. The company saw a significant drop in earnings after the recent [Costa Concordia] disaster, illustrating the importance of maintaining the highest standards of safety.

MR. THAYER emphasized that these regulatory changes streamline the process, but the requirements were the same and did not affect safety.

SENATOR WIELECHOWSKI asked if the amendment to 12 AAC 56.115(b) didn't make it easier for foreign vessels to operate without marine pilots.

MR. THAYER offered his belief that streamlining the process did not change the requirements. The same information is required and the application goes through the same approval process.

SENATOR WIELECHOWSKI asked the dollar amount of the penalty for a violation under subsection (b). He read the deleted language, "and (2) pays the appropriate charges for pilotage services in accordance with 12 AAC 56.205(a),(b),(c), or (d)."

MR. THAYER responded that refers to a private action between the pilot association and the owner of the pleasure craft, although the Board of Marine Pilots retains the ability to receive that payment. He interpreted the change as reinforcing the state's right to fine, something it had not been doing.

SENATOR WIELECHOWSKI questioned the wisdom of removing the language in paragraph (2).

MR. THAYER explained that the deleted language put the state in the position of forcing a third-party action. It referred to charges the vessel owner may owe the pilot association, not the state. He reiterated that the state retains the ability to fine the owner of the pleasure craft, and this clarifies that there may be two actions.

CHAIR FRENCH offered his view for redrafting the regulation to eliminate the opportunity for a future exemption.

(b) If a pleasure craft of foreign registry of more than 125 feet overall length enters compulsory pilotage waters without a pilot or a pilotage exemption under AS 08.62.180 (b) - (e), the operator of the pleasure craft will not be granted a subsequent pilotage exemption.

He continued that the board believes it is reaffirming the state's right to assess fines, but to actually provide a method for doing so he would suggest replacing the deleted language about pilotage services in paragraph (2) with the phrase "and paid the fine under AS 08.62.040(f)." That subsection talks about the fines the state can assess.

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SENATOR WIELECHOWSKI commented on the difficulty of filing suit to recover pilot fees when the organization is based in a foreign company.

MR. THAYER responded that it would be difficult with or without the changes to the regulations. He added that the authority was retained in statute.

SENATOR WIELECHOWSKI asked for the statutory reference.

CHAIR FRENCH said the committee would hear testimony from marine pilots while Mr. Thayer looked for the reference.

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CARTER WHALEN, President, Alaska Marine Pilots, Dutch Harbor, AK, discussed the reasons that regulations regarding marine pilots were critical to the Alaska economy and environment. He cited the Costa Concordia disaster to emphasize the importance of the Alaska laws regarding marine pilots in maintaining safety and preventing marine accidents. When passengers aren't sure of safe navigation through dangerous waters, they won't sail, and

any large vessel plying Alaskan waters, including foreign pleasure craft over 65 feet, is a potential oil spill if it runs aground.

MR. WHALEN said he finds it troubling that the board tasked with enforcing Alaska's system of pilotage appears to be accommodating industries' desire to weaken the system. DCCED recently offered four amendments that weaken marine pilotage regulations to the Board of Marine Pilots, and three passed. In each case the logic was to streamline the exemption process in order to stimulate economic development from the foreign pleasure craft market. However, no economic data was offered for the board to consider.

MR. WHALEN cited the amendment to 12 AAC 56.115(b) as particularly perplexing. The law was broken yet the process to get an exemption was expedited absent the only measure designed to keep foreign yachts from violating the law in the first place. He suggested that if the board is concerned about the pilot association being compensated for the avoided service fees, it should have amended the language to include a daily penalty equal to the cost of hiring a state-licensed marine pilot. Now all a foreign yacht has to do for next year's exemption is to provide satisfactory documentation detailing the vessel's entry and voyages in violation. Regulations and penalties sufficient to serve as a deterrent no longer protect the state's interest. He reconfirmed his opposition to the regulation changes and concluded that Alaska and protecting Alaska's economy and environment should come first, and foreign pleasure craft owners should come second.

REPRESENTATIVE TUCK asked if he agrees that a foreign pleasure craft operator can get an exemption without having settled his or her obligations.

MR. WAYLEN said that's correct. The board passed the amendments expeditiously with logic that doesn't hold water. The third change was a particularly good example of that.

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CAPTAIN ROBERT WINTER, marine pilot, Southeast Alaska Pilots Association, said he has piloted vessels in Alaska for more than 20 years, is a retired U.S. Coast Guard officer, and has served on the Board of Marine Pilots foreign yacht committee since its inception in 2003. He stated that when the Board of Marine Pilots considered four amendments to the regulations for foreign pleasure yachts, an overwhelming majority of the comments were

against these changes. Opposing comments came from marine pilots, the former chair of the Board of Marine Pilots, former public members of the board, general counsel for the American Pilots Association, the U.S. Coast Guard, and several members of the public yet the board overwhelmingly passed each proposal.

He agreed with other statements that the pilots' primary interest in the issue is safety. He confirmed that pilots generate little income from these vessels because they are largely exempt from needing a pilot. Vessel agents are the only entity that stands to gain from slacking the requirements because exempt yachts are required to hire an agent. He continued to say that getting the word out that Alaska is open for business is well and good as long as the state is protected. The Alaska Pilot Act requires pilots to be available for dispatch 24/7, 365 days a year and the expense of having a pilot available is ongoing. Those costs don't go away when a vessel that is required to employ a pilot fails to do so. He cited a recent example of a foreign pleasure craft that received an exemption and spent most of its time in Alaska operating as a charter vessel. When the operator was caught and fined, the vessel left state waters and the fine and charges went unpaid. He concluded by saying that Alaska has one of the weakest yacht requirements in the nation and he hopes it doesn't turn into Rodney Dangerfield's Caddyshack.

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CHAIR FRENCH noted that the committee could look forward to receiving written comments from Terri Lauterbach. He asked Mr. Thayer if he had any concluding comments.

MR. THAYER recapped the public process for reviewing proposed regulation changes, and said it would be helpful going forward if the pilots and their attorneys offer suggestions to improve the process. These regulations were considered for over 90 days and not one attorney from the pilot association stepped forward to offer comment.

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REPRESENTATIVE TUCK asked what entity suggested the regulation changes.

MR. THAYER replied the Division of Corporations, Business and Professional Licensing asked for them based on instances of past issues. He reiterated the intent was to streamline the process without dumbing down the regulations.

Proposed Changes in 7 AAC 70.110 - Additional Requirements for Providing Alcohol and Drug Detoxification Services

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CHAIR FRENCH announced the second matter before the committee relates to physician assistants and additional requirements for providing alcohol and drug detoxification services under 7 AAC 70.110. He asked Ms. Keklak to give the committee an overview of the recent regulatory changes.

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TERI KEKLAK, Manager, Program Integrity and Medicaid Services, Division of Behavioral Health, Department of Health and Social Services (DHSS), Anchorage, AK, explained that the Behavioral Health regulations outlined in 7 AAC 70.010-70.990 generally outline DHSS's responsibilities under AS 47.30.520-620 the Community Mental Health Services Act, and AS 47.37 the Uniform Alcoholism and Intoxication Treatment Act. Specifically, AS 47.37.140 grants DHSS the responsibility for determining standards in treatment facilities.

The Behavioral Health regulations in 7 AAC 70.110 define the requirements for providing services in detox facilities, including staffing requirements. The regulations were drafted to ensure that professional workers practice within the scope of practice defined by their professional licensing statutes and regulations. AS 08.68.265 expressly excludes physician assistants as a category of professional who can oversee licensed practical nurses. Therefore, 7 AAC 70.110(d)(3)(E) limits the supervision of licensed practical nurses (LPN) to physicians and advanced nurse practitioners.

AS 08.64.107 grants the Board of Medicine the authority to adopt regulations regarding licensure of physician assistants, and the regulations under 12 AAC 40.410 require a physician assistant to practice under a collaborative relationship with a licensed physician. The Behavioral Health regulations under 7 AAC 70.110 were drafted to ensure that they did not allow practice outside of the professional authorities.

MS. KEKLAK relayed that DHSS was consulting with the Alaska Medical Board to clarify whether or not the collaborative relationship includes RN supervision. Depending on the outcome of that consultation, DHSS will amend its regulations accordingly.

REPRESENTATIVE TUCK asked if the collaborative agreement is any different for a PA working in a certified detoxification facility compared to any other medical facility.

MS. KEKLAK explained that the collaborative agreement does not speak to the type of facility; it is an agreement with a licensed physician that defines the scope of practice and service that the PA can provide.

CHAIR FRENCH informed the committee that Melissa Stone, the director of the Division of Behavioral Health, and Jon Sherwood, the medical assistance administrator for DHSS, were available to answer questions.

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PAUL FINCH, representing himself, said he works as a physician assistant at Gateway to Recovery Detox Center in Fairbanks, AK. He testified in support of authorizing PAs to supervise RNs and LPNs in a detoxification facility. He said it was an oversight that they were not included when the regulation was written. PAs now sign standing orders for nurses to do their work in clinics, outpatient clinics, and sometimes hospital settings, so it is a matter of common sense to include detox services, he said.

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CHAIR FRENCH asked Mr. Finch if his view was that "physician assistant" should be added in 7 AAC 70.110(b)(4)(D) and (E) to the list of professions who can supervise a registered nurse or a licensed practical nurse.

MR. FINCH said it should be added there and other locations where the same language appears throughout the regulation.

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ROBERT R. THOMAS, physician assistant (PA), Anchorage, AK, and past president of the Alaska Academy of Physician Assistants, spoke in support of amending the regulations to give PAs the authority to supervise nurses in detoxification facilities. He said he believes that when the regulations were written it was a simple oversight that PAs were omitted from this supervisory role. He explained that PAs work under the supervision of a collaborative physician and that physician delegates certain authority to the PA. In every other setting, this includes the supervision of nurses.

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REPRESENTATIVE TUCK asked if he was aware of any other fields where PAs were not allowed to supervise nurses.

MR. THOMAS said no.

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JON SHERWOOD, Medical Assistance Administrator, Department of Health and Social Services (DHSS), offered to answer questions.

CHAIR FRENCH asked if he would characterize it as an omission or deliberate that physician assistants were not included in 7 AAC 70.110(b).

MR. SHERWOOD replied he would agree with Ms. Keklak's statement that DHSS tried to write the regulations to not conflict with the statutes regarding licensing of physician assistants or the supervision of registered nurses and licensed practical nurses. If DHSS changes the regulations it wants to understand from the professional boards that it reflects the appropriate scope of practice. There is a very explicit statute that limits who can supervise LPNs; it lists doctors, nurses, and dentists, but not physician assistants. If delegation is permitted DHSS wants to ensure it has clear guidance from the professional boards that DHSS's regulation would not conflict with that statute.

CHAIR FRENCH asked for confirmation that he saw the omission as deliberate.

MR. SHERWOOD responded that DHSS deliberately tried to write it not to overstep its authority. He did not know that the issue of delegation was explicitly addressed or that the department considered how the regulation would be interpreted. He deferred further comment to Ms. Keklak.

CHAIR FRENCH asked Ms. Keklak to comment on the last exchange and to remind him of the exact statute.

MR. SHERWOOD cited the reference as AS 08.68.265, Supervision of Practical Nurses.

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REPRESENTATIVE TUCK asked if PAs testified during the public portion of the regulation changes, and if they reported what was happening in the industry.

MR. SHERWOOD replied he did not have an answer, but it may be part of the record.

CHAIR FRENCH asked Ms. Keklak if she had anything to add to the exchange.

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MS. KEKLAK agreed with Mr. Sherwood's statements, and offered to go through the record and forward any information and comments from PAs.

REPRESENTATIVE TUCK asked if AS 08.68.265 specifically omits PAs.

MR. SHERWOOD said AS 08.68.265 says, "A practical nurse shall work under the supervision of a licensed registered nurse, a licensed physician, or a licensed dentist."

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REPRESENTATIVE TUCK asked if that was specific to behavioral health services or in general.

MR. SHERWOOD replied his understanding was that it is a general requirement.

REPRESENTATIVE TUCK noted the conflict between earlier testimony and the statute and raised the issue of potential violations.

MR. SHERWOOD clarified that he was not an expert in professional licensing and suggested it was a discussion to have with the Board of Nursing or staff from the Division of Corporations, Business and Professional Licensing.

REPRESENTATIVE TUCK asked if it was correct to say that there was not opposition to PAs overseeing nurses; the concern relates to the way the statutes were written.

MR. SHERWOOD replied he was not aware of any opposition. He reiterated that DHSS was simply trying to write the regulations in a way that did not conflict with any statute relating to the regulation of professional licensing and professional oversight.

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Proposed Changes in 12 AAC 56.115 - Pleasure Craft Exemptions

SENATOR WAGONER asked for a little more discussion on the marine pilot issue and reiterated that the focus should be boating safety, not accommodating a special interest. He expressed

reservations about the proposed changes, particularly in light of Mr. Whalen's closing remark:

In closing we see no justification for the proposed changes listed above and do not see any corroborating information provided at the November Board of Marine Pilots meeting that justifies or supports the changes to regulation as proposed. At a minimum, the board's yacht committee should vet this matter before further action by the board is considered.

SENATOR WAGONER said he finds it interesting that the board's yacht committee did not meet prior to the proposed regulation changes.

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REPRESENTATIVE OLSON commented that it appeared that convenience was trumping safety on this issue.

REPRESENTATIVE TUCK added that he was not sure what was being fixed, because it appeared that everything was working well.

SENATOR WIELECHOWSKI highlighted the Administrative Regulation Review Committee's seeming universal opposition to the regulation changes, and expressed curiosity about the next step.

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CHAIR FRENCH explained that the next step is for the lieutenant governor to decide whether to sign the regulation into effect. If the committee believes that something needs to be fixed, it has to be done by statute.

REPRESENTATIVE TUCK agreed that the committee was largely in unison about the marine pilot issue, and questioned whether it wanted to express uniform disapproval of the second matter as well.

SENATOR WAGONER commented that he had experience in teaching nurses and had no desire to tread those waters again.

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There being no further business to come before the committee, Chair French adjourned the meeting at 3:01 p.m.