

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

April 2, 2012

3:22 p.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Craig Johnson, Vice Chair
Representative Dan Saddler
Representative Steve Thompson
Representative Lindsey Holmes

MEMBERS ABSENT

Representative Mike Chenault
Representative Bob Miller

COMMITTEE CALENDAR

HOUSE BILL NO. 251

"An Act relating to the Board of Veterinary Examiners and the practice of veterinary medicine."

- MOVED CSHB 251(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 259

"An Act establishing procedures and guidelines for auditing pharmacy records; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 266

"An Act relating to the practice of naturopathy; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 251

SHORT TITLE: PRACTICE OF VETERINARY MEDICINE

SPONSOR(S): REPRESENTATIVE(S) DICK, JOULE

01/17/12	(H)	PREFILE RELEASED 1/6/12
01/17/12	(H)	READ THE FIRST TIME - REFERRALS
01/17/12	(H)	L&C, FIN

01/20/12 (H) SPONSOR SUBSTITUTE INTRODUCED
 01/20/12 (H) READ THE FIRST TIME - REFERRALS
 01/20/12 (H) L&C, FIN
 02/15/12 (H) L&C AT 3:15 PM BARNES 124
 02/15/12 (H) Scheduled But Not Heard
 02/20/12 (H) L&C AT 3:15 PM BARNES 124
 02/20/12 (H) Heard & Held
 02/20/12 (H) MINUTE(L&C)
 03/23/12 (H) L&C AT 3:15 PM BARNES 124
 03/23/12 (H) Heard & Held
 03/23/12 (H) MINUTE(L&C)
 04/02/12 (H) L&C AT 3:15 PM BARNES 124

BILL: HB 259

SHORT TITLE: PHARMACY AUDITS

SPONSOR(s): REPRESENTATIVE(s) MUNOZ, P.WILSON

01/17/12 (H) PREFILE RELEASED 1/13/12
 01/17/12 (H) READ THE FIRST TIME - REFERRALS
 01/17/12 (H) L&C, FIN
 02/27/12 (H) L&C AT 3:15 PM BARNES 124
 02/27/12 (H) Heard & Held
 02/27/12 (H) MINUTE(L&C)
 03/16/12 (H) L&C AT 3:15 PM BARNES 124
 03/16/12 (H) Heard & Held
 03/16/12 (H) MINUTE(L&C)
 03/26/12 (H) L&C AT 3:15 PM BARNES 124
 03/26/12 (H) Heard & Held
 03/26/12 (H) MINUTE(L&C)
 04/02/12 (H) L&C AT 3:15 PM BARNES 124

BILL: HB 266

SHORT TITLE: PRACTICE OF NATUROPATHY

SPONSOR(s): REPRESENTATIVE(s) MUNOZ, TUCK, THOMPSON

01/17/12 (H) PREFILE RELEASED 1/13/12
 01/17/12 (H) READ THE FIRST TIME - REFERRALS
 01/17/12 (H) L&C
 02/08/12 (H) L&C AT 3:15 PM BARNES 124
 02/08/12 (H) Heard & Held
 02/08/12 (H) MINUTE(L&C)
 02/17/12 (H) L&C AT 3:15 PM BARNES 124
 02/17/12 (H) Heard & Held
 02/17/12 (H) MINUTE(L&C)
 02/29/12 (H) L&C AT 3:15 PM BARNES 124
 02/29/12 (H) Heard & Held
 02/29/12 (H) MINUTE(L&C)

03/05/12 (H) L&C AT 3:15 PM BARNES 124
03/05/12 (H) <Bill Hearing Canceled>
03/30/12 (H) L&C AT 3:15 PM BARNES 124
03/30/12 (H) <Bill Hearing Canceled>
04/02/12 (H) L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

ANNETTE KREITZER, Staff
Representative Alan Dick
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Explained the changes contained in the proposed committee substitute for HB 251, Version O.

KONRAD JACKSON, Staff
Representative Kurt Olson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: On behalf of Representative Kurt Olson, Chair, House Labor & Commerce Committee, explained the previously adopted amendments and changes contained in the proposed committee substitute for HB 259, Version D.

ACTION NARRATIVE

[3:22:09 PM](#)

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at 3:22 p.m. Representatives Thompson, Holmes, Johnson, Saddler, and Olson were present at the call to order.

HB 251-PRACTICE OF VETERINARY MEDICINE

[3:22:23 PM](#)

CHAIR OLSON announced that the first order of business would be SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 251, "An Act relating to the Board of Veterinary Examiners and the practice of veterinary medicine."

[3:22:50 PM](#)

REPRESENTATIVE JOHNSON made a motion to withdraw the committee's action in adopting the proposed committee substitute (CS) for HB 251, labeled 27-LS1062\R, Martin, 3/20/12. There being no

objection, Version R was withdrawn [Version R was previously adopted at the 3/23/12 House Labor and Commerce Standing Committee meeting.]

[3:23:13 PM](#)

REPRESENTATIVE JOHNSON moved to adopt the proposed committee substitute, (CS) for HB 251, labeled 27-LS1062\O, Martin, 3/26/12. There being no objection, Version O was adopted as the working document.

[3:23:30 PM](#)

ANNETTE KREITZER, Staff, Representative Alan Dick, Alaska State Legislature, introduced explained the changes from [the sponsor substitute] Version D and the proposed committee substitute (CS) for HB 251. She stated that the language in Section 1 of Version O was changed to remove the Board of Veterinary Examiners' oversight of veterinarians practicing uncompensated or pro bono care. She referred to page 2, lines 1-8, and related concerns were expressed about how to track pro bono veterinarians. Subsection (b) would require the department to collect the name, address, contact information and a copy of the veterinarian's license to practice veterinary medicine. She reported the department form will be available electronically.

[3:24:43 PM](#)

MS. KREITZER stated that Section 2 was deleted from Version D, which provided provisions for surrender and reinstatement of a license. The phrase "or experimental" was removed from proposed Section 3, page 3, line 26 of Version D, noting the term professional incompetence is found in proposed Section 2 of Version O. Additionally, "gross negligence or repeated negligent conduct" was removed from that same section based on testimony by the Alaska State Veterinary Medical Association, who expressed concern that this created an unnecessary higher standard for showing professional incompetence. Version O corrects a minor drafter error in proposed Section 3, line 21, which incorrectly directed the notice of complaint be sent to the licensee when the notice should be sent to the complainant. Additionally, Version O would establish a task force to examine the need for and status of veterinary services in rural Alaska, including rabies vaccinations. The task force would be comprised of representation from the House and Senate, the Alaska Federation of Natives (AFN), state personnel that interact with veterinarians and private veterinarians who

provide service in rural Alaska and urban areas. She reported the task force recommendations are due to the governor and the legislature by December 31, 2012.

[3:26:23 PM](#)

CHAIR OLSON thanked his staff and the sponsor's staff for their work on this bill. He pointed out numerous people had weighed in on the bill.

[3:27:02 PM](#)

REPRESENTATIVE JOHNSON moved to report the proposed committee substitute (CS) for HB 251, labeled 27-LS1062\O, Martin, 3/26/12, out of committee with individual recommendations and the accompanying fiscal notes. There being no further objection, the CSHB 251(L&C) was reported from the House Labor and Commerce Standing Committee.

[3:27:23 PM](#)

The committee took an at-ease from 3:27 p.m. to 3:29 p.m.

HB 259-PHARMACY AUDITS

[3:29:13 PM](#)

CHAIR OLSON announced that the next order of business would be HOUSE BILL NO. 259, "An Act establishing procedures and guidelines for auditing pharmacy records; and providing for an effective date."

CHAIR OLSON reminded members that at previous hearings amendments were moved, discussed, and tabled. He then announced his intention to dispense with the amendments, begin discussion of the draft committee substitute, and set it aside for members to review.

[3:29:41 PM](#)

REPRESENTATIVE JOHNSON moved to take from the table Amendment 4, labeled 27-LS0675\I.5, Martin, 3/14/12, which read, as follows:

Page 3, lines 15 - 16:

Delete all material and insert:

"(b) This section does not apply to
(1) a criminal investigation; or

(2) an investigation or audit by a governmental agency, including state Medicaid programs."

There being no objection, Amendment 4 was before the committee.

[The committee treated the amendment as though an objection had been made for the purpose of discussion.]

[3:29:59 PM](#)

KONRAD JACKSON, Staff, Representative Kurt Olson, Alaska State Legislature, on behalf of Representative Olson, Chair, House Labor and Commerce Standing Committee, stated that Amendment 4 was previously discussed at the March 26, 2012 House Labor and Commerce Standing Committee meeting. He explained that Amendment 4 would exempt audits from governmental agencies and has been incorporated into the proposed committee substitute (CS) [Version D], which the committee will take up later in the meeting.

[3:31:02 PM](#)

REPRESENTATIVE JOHNSON moved to withdraw the motion to adopt Amendment 4. There being no objection, Amendment 4 was withdrawn.

[3:31:24 PM](#)

REPRESENTATIVE JOHNSON moved to take from the table Amendment 3, labeled 27-LS0675\I.4, Martin, 3/14/12, which read:

Page 2, line 30, following "provider,":

Insert "documented telephone calls from the prescriber or prescriber's agent,"

There being no objection, Amendment 3 was before the committee.

[The committee treated the amendment as though an objection had been made for purpose of discussion.]

[3:31:42 PM](#)

MR. JACKSON explained Amendment 3 was previously discussed. He referred to page 2, line 29 of the bill, which read, "...a pharmacy may use any record...." He explained that since a

pharmacy keeps a record of any calls to prescribers and prescribers' agents that the language in Amendment 3 is not needed. He clarified that this language will not be included in the proposed CS since it was deemed unnecessary.

[3:32:17 PM](#)

REPRESENTATIVE JOHNSON moved to withdraw the motion to adopt Amendment 3. There being no objection, Amendment 3 was withdrawn.

[3:32:29 PM](#)

REPRESENTATIVE JOHNSON moved to take from the table Amendment 2, labeled 27-LS0675\I.3, Martin, 3/14/12, which read:

Page 2, following line 23:

Insert a new paragraph to read:

"(11) an auditor may not assess a charge-back, recoupment, or other penalty against a pharmacy based on a prescription that is mailed or delivered by request of a patient as part of a routine business practice;"

Renumber the following paragraphs accordingly.

There being no objection, Amendment 2 was before the committee.

[The committee treated the amendment as though an objection had been made for purpose of discussion.]

[3:32:41 PM](#)

MR. JACKSON explained that Amendment 2 addressed a concern about clarification on wording. He said that Amendment 2 has been incorporated into the proposed CS that members will see shortly. The language was modified on line 3 of the amendment by deleting "based on" and inserting "solely because" and deleting the word "that" after the word "prescription" to further clarify that chargebacks or assessments would not be based solely on the mailing or delivery of a prescription. He reiterated that this language would clarify that if a prescription is mailed out the pharmacists will not be penalized.

[3:33:41 PM](#)

REPRESENTATIVE SADDLER asked him to reference the bill version.

MR. JACKSON noted that the working document is the original version of HB 259. He pointed out that a proposed CS, Version D is prepared, but is not yet before the committee.

[3:34:19 PM](#)

REPRESENTATIVE JOHNSON moved to withdraw Amendment 2. There being no objection, Amendment 2 was withdrawn.

[3:34:29 PM](#)

REPRESENTATIVE JOHNSON moved to take from the table Amendment 1, labeled 27-LS0675\I.2, Martin, 3/14/12, which read:

Page 2, following line 5:

Insert a new paragraph to read:

"(3) an auditor may not audit more than 75 prescriptions during a single audit;"

Renumber the following paragraphs accordingly.

There being no objection, Amendment 1 was before the committee.

[The committee treated the amendment as though an objection had been made for purpose of discussion.]

[3:34:53 PM](#)

MR. JACKSON explained that Amendment 1 would limit the number of prescriptions requested during an audit to 75. He related that audits take considerable time for the pharmacists to prepare for; however, the administration expressed concern that when substantial errors occur during an audit once the threshold is reached the limit to 75 prescriptions creates difficulties for the auditors. The language in the proposed CS - soon to be before the committee [Version D] - is that the language will be revised to include a 10 percent trigger. He explained if an auditor discovers a 10 percent or greater error rate during an audit the 75 prescription cap goes away.

[3:35:48 PM](#)

REPRESENTATIVE JOHNSON withdrew Amendment 1. There being no objection, Amendment 1 was withdrawn.

3:35:59 PM

REPRESENTATIVE JOHNSON moved to adopt the proposed committee substitute (CS) for HB 259, labeled 27-LS0675\D, Martin, 3/30/12.

CHAIR OLSON objected for purpose of discussion. [Version D was before the committee.]

3:36:28 PM

MR. JACKSON explained the changes contained in the proposed CS for HB 259, Version D. He referred to page 2, lines 9-12 to paragraph (4). The original bill imposed a cap of two years after the date the claim was submitted. The new language in paragraph 4 would allow for a cap of two years or the term of a contract to apply.

MR. JACKSON referred to page 2, lines 13-15 to paragraph (5) of version D, which was changed to allow for consultation with a pharmacist licensed in this state or in another state. He pointed out if the consultation was limited to pharmacists in Alaska that not enough consultants would be available.

MR. JACKSON stated that Version D removed paragraphs (6), (7), (8), (11), (16), and (18) from the original version of HB 259 since the Department of Administration (DOA) and Mr. Barnhill had serious concerns with the language in those paragraphs.

MR. JACKSON referred to page 2, lines 6-8, to paragraph (3), which inserts the language in previously withdrawn Amendment 1. He reiterated that this amendment was just withdrawn. This language would remove the cap of 75 prescriptions during a single audit in the event of a 10 percent or greater error rate.

3:38:03 PM

MR. JACKSON referred to page 2, lines 24-26, to paragraph (9), which inserts the language in previously withdrawn Amendment 2, which would disallow assessments solely on the basis of mailing or delivering a prescription.

MR. JACKSON referred to page 3, lines 13-16, to subsection (b), which inserts the language in previously withdrawn Amendment 4, which would exempt governmental agencies.

MR. JACKSON explained the last change is to add an effective date of July 1, 2013, to give people an opportunity to allow for a transition period for HB 259.

[3:38:31 PM](#)

CHAIR OLSON removed his objection.

[HB 259 was held over.]

HB 266-PRACTICE OF NATUROPATHY

[3:39:10 PM](#)

CHAIR OLSON announced that the final order of business would be HOUSE BILL NO. 266, "An Act relating to the practice of naturopathy; and providing for an effective date."

CHAIR OLSON explained that the committee was awaiting a new committee substitute.

[HB 266 was held over.]

[3:39:34 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 3:39 p.m.