

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

April 11, 2012

3:25 p.m.

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

Representative Mike Chenault

**COMMITTEE CALENDAR**

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 119(L&C)  
"An Act relating to athletic trainers."

- HEARD & HELD

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

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 27(HSS)  
"An Act relating to flame retardants and to the manufacture, sale, and distribution of products containing flame retardants; relating to a multistate chemicals clearinghouse; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 119

SHORT TITLE: ATHLETIC TRAINERS

SPONSOR(s): SENATOR(s) MEYER

04/01/11 (S) READ THE FIRST TIME - REFERRALS  
04/01/11 (S) HSS, L&C  
04/11/11 (S) HSS AT 1:30 PM BUTROVICH 205  
04/11/11 (S) Moved CSSB 119(HSS) Out of Committee  
04/11/11 (S) MINUTE(HSS)  
04/12/11 (S) HSS RPT CS 4DP NEW TITLE  
04/12/11 (S) DP: DAVIS, MEYER, EGAN, DYSON  
04/12/11 (S) FIN REFERRAL ADDED AFTER L&C  
04/14/11 (S) L&C AT 2:00 PM BELTZ 105 (TSBldg)  
04/14/11 (S) Moved CSSB 119(L&C) Out of Committee  
04/14/11 (S) MINUTE(L&C)  
04/15/11 (S) L&C RPT CS 4DP 1NR NEW TITLE  
04/15/11 (S) DP: EGAN, DAVIS, PASKVAN, MENARD  
04/15/11 (S) NR: GIESSEL  
02/01/12 (S) FIN AT 9:00 AM SENATE FINANCE 532  
02/01/12 (S) Heard & Held  
02/01/12 (S) MINUTE(FIN)  
03/30/12 (S) FIN RPT CS (L&C) 4DP 2NR  
03/30/12 (S) DP: HOFFMAN, THOMAS, EGAN, ELLIS  
03/30/12 (S) NR: STEDMAN, OLSON  
03/30/12 (S) FIN AT 9:00 AM SENATE FINANCE 532  
03/30/12 (S) Moved CSSB 119(L&C) Out of Committee  
03/30/12 (S) MINUTE(FIN)  
04/02/12 (S) TRANSMITTED TO (H)  
04/02/12 (S) VERSION: CSSB 119(L&C)  
04/03/12 (H) READ THE FIRST TIME - REFERRALS  
04/03/12 (H) L&C, FIN  
04/10/12 (H) L&C AT 4:00 PM BARNES 124  
04/10/12 (H) -- MEETING CANCELED --  
04/11/12 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
04/11/12 (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
04/02/12	(H)	Heard & Held
04/02/12	(H)	MINUTE(L&C)
04/06/12	(H)	L&C AT 3:15 PM BARNES 124
04/06/12	(H)	Scheduled But Not Heard
04/09/12	(H)	L&C AT 3:15 PM BARNES 124
04/09/12	(H)	Heard & Held
04/09/12	(H)	MINUTE(L&C)
04/10/12	(H)	L&C AT 4:00 PM BARNES 124
04/10/12	(H)	-- MEETING CANCELED --
04/11/12	(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
04/02/12	(H)	Heard & Held
04/02/12	(H)	MINUTE(L&C)
04/06/12	(H)	L&C AT 3:15 PM BARNES 124
04/06/12	(H)	Scheduled But Not Heard
04/09/12	(H)	L&C AT 3:15 PM BARNES 124
04/09/12	(H)	Scheduled But Not Heard
04/11/12	(H)	L&C AT 3:15 PM BARNES 124

BILL: SB 27

SHORT TITLE: FLAME RETARDANTS /CHEMICALS CLEARINGHOUSE  
SPONSOR(s): SENATOR(s) WIELECHOWSKI

01/19/11	(S)	PREFILE RELEASED 1/7/11
01/19/11	(S)	READ THE FIRST TIME - REFERRALS
01/19/11	(S)	HSS, FIN
02/21/11	(S)	HSS AT 1:30 PM BUTROVICH 205
02/21/11	(S)	Heard & Held
02/21/11	(S)	MINUTE(HSS)
02/28/11	(S)	HSS AT 1:30 PM BUTROVICH 205
02/28/11	(S)	Moved CSSB 27(HSS) Out of Committee
02/28/11	(S)	MINUTE(HSS)
03/01/11	(S)	HSS RPT CS 3DP 1NR NEW TITLE
03/01/11	(S)	DP: DAVIS, ELLIS, EGAN
03/01/11	(S)	NR: MEYER
04/08/11	(S)	FIN AT 9:00 AM SENATE FINANCE 532
04/08/11	(S)	Heard & Held
04/08/11	(S)	MINUTE(FIN)
02/24/12	(S)	FIN RPT CS (HSS) 3DP 2NR
02/24/12	(S)	DP: THOMAS, EGAN, ELLIS
02/24/12	(S)	NR: STEDMAN, OLSON
02/24/12	(S)	FIN AT 9:00 AM SENATE FINANCE 532
02/24/12	(S)	Moved CSSB 27(HSS) Out of Committee
02/24/12	(S)	MINUTE(FIN)
04/04/12	(S)	TRANSMITTED TO (H)
04/04/12	(S)	VERSION: CSSB 27(HSS)
04/05/12	(H)	READ THE FIRST TIME - REFERRALS
04/05/12	(H)	L&C, FIN
04/10/12	(H)	L&C AT 4:00 PM BARNES 124
04/10/12	(H)	-- MEETING CANCELED --
04/11/12	(H)	L&C AT 3:15 PM BARNES 124

#### WITNESS REGISTER

CHRISTINE MARASIGAN, Staff  
Senator Kevin Meyer  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified on behalf of the sponsor of SB 119, Senator Kevin Meyer.

BRENDA SHELDON, Athletic Trainer; President  
Alaska Athletic Trainers Association (AATA)  
Palmer, Alaska

**POSITION STATEMENT:** Testified during the discussion of SB 119.

LYNNE-MARIE YOUNG, Certified Athletic Trainer;

Secretary-/Treasurer, Alaska Athletic Trainers' Association  
Eagle River, Alaska

**POSITION STATEMENT:** Testified during the discussion of SB 119.

CHRISTOPHER CLARK, Staff  
Representative Cathy Munoz  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Explained the changes in the proposed committee substitute for HB 259, Version E.

BARRY CHRISTENSEN, Pharmacist, Island Pharmacy, Inc.;  
Co-Chair, Legislative Committee  
Alaska Pharmacists Association (AkPhA)  
Ketchikan, Alaska

**POSITION STATEMENT:** Testified during the discussion HB 259.

TOM HODEL, Pharmacist and Owner  
Soldotna Professional Pharmacy  
Soldotna, Alaska

**POSITION STATEMENT:** Testified during the discussion of HB 259.

SAM GOTTSTEIN, Staff  
Senator Bill Wielechowski  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented SB 27 on behalf of the sponsor, Senator Wielechowski.

SENATOR BILL WIELECHOWSKI  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified as sponsor of SB 27.

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

**POSITION STATEMENT:** Testified and answered questions on the proposed committee substitute (CS) for SB 27, Version E.

EMILY BREESE  
Healy, Alaska

**POSITION STATEMENT:** Testified in support of SB 27.

#### **ACTION NARRATIVE**

[3:25:26 PM](#)

**CHAIR KURT OLSON** called the House Labor and Commerce Standing Committee meeting to order at 3:25 p.m. Representatives Saddler, Johnson, Miller and Olson were present at the call to order. Representatives Thompson and Holmes arrived as the meeting was in progress.

**SB 119-ATHLETIC TRAINERS**

[3:25:54 PM](#)

CHAIR OLSON announced that the first order of business would be CS FOR SENATE BILL NO. 119(L&C), "An Act relating to athletic trainers."

[3:26:01 PM](#)

CHRISTINE MARASIGAN, Staff, Senator Kevin Meyer, Alaska State Legislature, on behalf of the sponsor of SB 119, Senator Kevin Meyer, stated that this bill relates to athletic trainers.

[3:28:15 PM](#)

REPRESENTATIVE JOHNSON moved to adopt the proposed House committee substitute (CS) to CSSB 119(L&C), labeled 27-LS0732\X, Kirsch, 4/10/12.

CHAIR OLSON objected for the purpose of discussion.

[3:28:42 PM](#)

MS. MARASIGAN reviewed the proposed committee substitute, Version X. She referred to page 2, lines 1-2, which reads, "relating to student participation in interscholastic activities; and providing for an effective date." She also referred to page 2, line 12, which reads, "(2) meets the requirements established by the department in regulation;". She indicated that this provision relates to the requirements set out in regulations under proposed AS 08.07.030 on page 2, lines 20-27. She explained this language was removed by prior committees for cost savings; however, on further reflection and discussions with the Department of Law, it was decided that having the regulations establishing state standards would be appropriate.

[3:30:04 PM](#)

MS. MARASIGAN referred to the definition section, under proposed AS 08.07.040 has been changed. She related that on page 3, Sections 3 and 4 remain the same and the provisions outline that an athletic trainer is recognized as a health care provider.

MS. MARASIGAN referred to Section 4, which relates to potential concussions and traumatic brain injury and clarifies a student may not return for "participation in practice or game" until the student has been evaluated and is cleared for participation in writing. She explained that athletic trainers are trained to treat concussions and traumatic brain injuries. She explained that the language on page 3, lines 28-31 and page 4, of Section 5 outlines the different ways in which those in alternative educational programs can participate in interscholastic school activities. She related that this bill was previously heard in the Health, Education, and Social Services Committee. She offered that Sections 6 and 7 refer to the effective dates.

[3:31:44 PM](#)

REPRESENTATIVE JOHNSON asked whether the bill excludes ninth grade level students from needing an athletic trainer. He referred to the definition of interscholastic activities or eligibility, noting that it does not seem to cover younger students.

MS. MARASIGAN explained this language basically refers to students enrolled in alternative education programs. In other words students who are homeschooled or attend an academy school or any school listed on page 4 of the bill can participate in interscholastic activities if they live in the district.

[3:33:11 PM](#)

REPRESENTATIVE JOHNSON asked what about "pee wee" football and if an athletic trainer can be used.

MS. MARASIGAN answered that the two issues are related, but this bill related to interscholastic athletics does not require an athletic trainer to be present. Students who want to participate in interscholastic athletics don't necessarily need to participate with the blessing of an athletic trainer.

REPRESENTATIVE JOHNSON said he would contemplate this.

[3:34:18 PM](#)

REPRESENTATIVE SADDLER said he attended a small school without athletic trainers. He asked for an informal definition of athletic trainer and whether there are various levels of trainers.

MS. MARASIGAN answered that the issue of smaller schools and athletic trainers in general has arisen previously. She explained that athletic training is federally defined as an occupation. These athletic trainers have an undergraduate degree in kinesiology and sports medicine. She explained the trainers adhere to a nationally certified process to become an athletic trainer. In terms of smaller schools, she related her understanding that Fairbanks has an athletic trainer. She stated that currently athletic trainers are unregulated and unlicensed in Alaska. Many of them volunteer for sports activities and are able to recognize concussions and other sports injuries, but there is not any requirement in the bill or otherwise that requires one to be present on site.

[3:36:07 PM](#)

REPRESENTATIVE SADDLER commented that he thinks of trainers with ice bags or ammonia when he thinks of athletic trainers. He asked whether people who participate in football and have an injury that may require a back board are treated by athletic trainers. He further asked who is liable when a trainer encounters someone with a broken spinal column. He asked whether athletic trainers are held liable.

MS. MARASIGAN deferred to the athletic trainers; however; she assumed athletic trainers, just like other medical professionals would be covered under Good Samaritan Law and can provide assistance.

[3:38:08 PM](#)

BRENDA SHELDON, Athletic Trainer; President, Alaska Athletic Trainers Association (AATA), stated she is an athletic trainer. She explained that athletic trainers are allied health care professionals who graduate from an accredited college or university athletic training program. Nearly 70 percent of athletic trainers hold a master's degree or higher advanced college degree. They take classes, including classes in human anatomy, biology, human physiology, statistics, exercise physiology, kinesiology chemistry, physics, medical conditions and disabilities, and therapeutic modalities. She offered to

provide a list to the committee. An independent board of certification nationally certifies athletic trainers, who must pass an examination and obtain 75 hours of medically related continuing education every three years, adhere to the standards of professional practice, and the code of ethics.

MS. SHELDON detailed that to be a licensed athletic trainer in Alaska, the trainer must be in good standing with the board of certification, and the Division of Business and Professional Licensing can obtain primary source verification from the board of certification. In Alaska, athletic trainers are found in the university system, in physician offices, on military bases, at high school sporting events, and working with semi-professional teams. This bill does not limit other professionals from standing alongside to provide care. This bill specifically does not prohibit any professional from working within their scope of practice to perform duties. She highlighted that athletic trainers who volunteer at youth or community functions are not currently covered or included in the Alaska Good Samaritan law, but SB 119 will ensure that athletic trainers are covered under the Good Samaritan law.

[3:40:38 PM](#)

MS. SHELDON referred to page 2 to the definition of athletic trainer, which she characterized as limiting. She respectfully asked for input. She suggested the definition should read, "athletic training" means the prevention, recognition, evaluation, treatment, and rehabilitation of injury or illness and engaging in the organization and administration of athletic training programs under the direction of a physician under AS 08.64." She offered her support for SB 119 with the revised definition of athletic training. She offered her belief that SB 119 would help to ensure that qualified, licensed, athletic trainers are caring for Alaskans.

[3:41:41 PM](#)

CHAIR OLSON asked about the Good Samaritan Act. He asked whether there are other professions are covered by the act. He related his understanding that the Good Samaritan Act protects a doctor, nurse, practitioner or anyone driving by an accident or on a plane to allow them to provide aid.

MS. SHELDON explained the Good Samaritan Act states the person must be licensed to be covered. She referred to page [3], line

3, which lists the professions covered under the Good Samaritan law. She explained that SB 119 would add athletic trainer.

[3:43:33 PM](#)

REPRESENTATIVE SADDLER asked for a copy of the proposed definition.

CHAIR OLSON advised the committee will have the proposed definition distributed.

[3:43:59 PM](#)

REPRESENTATIVE MILLER indicated the title relates to athletic trainers participating in interscholastic activities. He asked if the definition is too broad for athletic trainers. He was also uncertain whether the host of activities listed in the definition fall under the interscholastic activities.

MS. MARASIGAN referred members to Version X, pages 1, 2, and through page 3, line 14. She explained that the original bill solely addresses licensure of athletic trainers. She explained that the bill was amended and the additional language in the bill relates to interscholastic activities.

[3:45:52 PM](#)

REPRESENTATIVE MILLER referred to the semicolon in the bill title after athletic trainer.

MS. MARASIGAN reiterated her understanding that SB 119 relates to athletic trainers, and everything added from page 3, lines 15 through page 5 is another related to the issue scholastic activities previously in HB 369 sponsored by Representatives Thomas and Stolz, which was rolled into this bill since it is related.

REPRESENTATIVE MILLER commented he would accept that but it was still unclear.

[3:47:47 PM](#)

CHAIR OLSON asked if replacing the ";" with an "and" would clarify the title.

REPRESENTATIVE MILLER agreed. He commented that he was a swimmer in college and the athletic trainers were available to oversee the football team.

REPRESENTATIVE SADDLER asked for the number of athletic trainers in the state and whether they are used at the college, high school, or semi-professional level.

MS. SHELDON offered that there are approximately 41 athletic trainers in Alaska, in communities including Fairbanks, Matanuska-Susitna, Juneau, Sitka, and Anchorage. The roles are diverse including the university system, physician offices, and military bases. She related that their professional and allied professional background covers all areas within their scope of practice.

[3:49:26 PM](#)

REPRESENTATIVE SADDLER asked whether the universities have any undergraduate training programs.

MS. SHELDON related her understanding the programs are in the planning phase.

[3:49:54 PM](#)

REPRESENTATIVE SADDLER inquired as to level of pay for athletic trainers.

MS. SHELDON answered it varies in the setting, whether the job is at the university or at a physician's office. She characterized the pay as in the mid-range scale ranging from \$40,000 to \$55,000, but not in the high-end pay ranges.

REPRESENTATIVE SADDLER asked whether the athletic trainers are typically athletes or medical school students.

MS. SHELDON responded that it varies in Alaska since athletic trainers are a diverse group. She explained that there are dual-credentialed athletic trainers in Alaska who work in dual capacities, such as athletic trainers that work as a registered nurses, physical therapists, medical doctors (MD), physician assistants, and physical therapy assistants. She explained that athletic trainers typically fall in the medical background arena.

[3:51:53 PM](#)

LYNNE-MARIE YOUNG, Certified Athletic Trainer; Secretary/Treasurer, Alaska Athletic Trainers' Association, stated she just received a copy of SB 119. She agreed with Ms. Sheldon's testimony and fully supports SB 119 with the revision of the definition. She shared concerns over the definition of an athletic trainer since she is currently employed as an athletic trainer. She stated the current definition in the bill will change the scope of practice and some athletic trainers may actually lose their jobs. Under their scope of practice and national board certification, athletic trainers can treat patients in physicians' offices as physician extenders. Additionally, athletic trainers can work in military and industrial settings. She suggested that the language leads people to believe that only athletes and those with athletic injuries can benefit from an athletic trainer's care. She reiterated that the Alaska Athletic Trainers' Association fully supports SB 119 with the definition change for athletic trainers.

[3:53:52 PM](#)

REPRESENTATIVE SADDLER referred to the definition for athletic trainer and asked how someone practices under the direction of a physician.

MS. YOUNG answered that the athletic trainers through education are trained to deal with injuries and illnesses as they occur. She explained that athletic trainers use physicians as their guides. In the event that athletic trainers have questions they consult with a physician to obtain direction. She pointed out that while athletic trainers take many of the same courses, they are not at the same level as a physician; however, athletic trainers can discuss certain cases. She described the treatment they offer as treating people for injury and illness. She pointed out that one ankle sprain may take two to three weeks to heal and athletic trainers will communicate to see how injury or illness is responding according to the protocol.

[3:55:33 PM](#)

REPRESENTATIVE SADDLER asked whether a patient must first be seen by a physician and then the athletic trainer takes over or if there is a standard set of orders for conditions.

MS. YOUNG answered that there is a standard set of treatments, such that if an athlete or individual slips on ice or on a

basketball court, the athletic trainer is trained to do an assessment. Through the assessment and education the athletic trainer knows whether the person would benefit from a basic protocol. She referred to PRICE, which means protection rights, ice, compression, and elevation as is typically taught in first aid courses is used; however, certain tests and evaluation procedures will lead the athletic trainers to determine whether the injured person needs to be splinted and transported to a hospital or to a physician's office for an X-ray. She recapped that based on education an athletic trainer's evaluation will deem whether the athletic trainer will recommend an individual needs an immediate trip to a physician or within a day or two of the injury.

REPRESENTATIVE SADDLER related his understanding the standard protocol would apply to someone who slipped on ice, which would still as being under the "direction of a physician."

MS. YOUNG offered her belief that the athletic trainers are trained to treat injuries and illnesses. She agreed a person slipping on ice would be treated similarly to someone slipping on a basketball court.

[3:57:13 PM](#)

CHAIR OLSON assumed the athletic trainers are paid by schools or insurance from the injured party.

MS. YOUNG responded that payment depends on the source of employment. She answered that athletic trainers who work at the university are paid by the university; those that work for physicians are paid by the physician or hospital; and those employed by the military are paid by the military. She related her personal circumstances, such that she is employed by a physician's office and she volunteers her service to the high schools, but the schools do not pay for the services. The schools display a banner or thank the physician and athletic trainer by placing an ad in their programs specifically thanking them for caring for their athletes.

[3:58:27 PM](#)

CHAIR OLSON answered if anyone bills insurance for services.

MS. YOUNG answered no.

[SB 119 was held over, with Chair Olson's objection to adoption of Version X pending.]

**HB 259-PHARMACY AUDITS**

3:59:35 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 removed his objection to the adoption of CSHB 259, Version E, labeled 27LS0675\E, Martin, 4/9/12, which was left pending at the April 9, 2012 meeting. There being no further objection, Version E was before the committee.

4:00:10 PM

CHRISTOPHER CLARK, Staff, Representative Cathy Munoz, Alaska State Legislature, commended the committee's staff, Konrad Jackson, for his work on this bill. He referred to page 2, line 6-10 to the language changes related to Scriveners' errors or written errors. He explained that audits would not be conducted within 90 days after an audit in which no errors were found. The definition of error was inserted. He referred to page 2, lines 31 through page 3, line 4, which relates to clerical error. He referred to page 3, lines 27-30, which indicates this section does not apply to a criminal investigation or investigation or audit by a governmental agency, including state Medicaid programs. He said the sponsor hopes this will lead to a zero fiscal note. He referred to page 2, lines 28-30, which adds language to deal with the mail orders, such that an auditor may not assess a charge-back, recoupment or other penalty against a pharmacy based solely on the mailed prescription or delivered at the request of the patient as part of a routine business practice of a pharmacy. He related his understanding that the pharmacists will echo the sponsor's sentiments on the work that has been done.

4:02:22 PM

BARRY CHRISTENSEN, Pharmacist, Island Pharmacy, Inc.; Co-Chair, Legislative Committee, Alaska Pharmacists Association (AkPhA), said he concurs with Mr. Clark and appreciates the work done on the bill. He offered his belief that the bill is a good compromise and contains language that will help pharmacists stay

focused on their main tasks on not fret about the issues related to audits. He acknowledged that Version E does not contain everything the pharmacists sought, but reiterated that Version E is a good compromise. He concluded that he appreciates the committee's work.

CHAIR OLSON particularly commended the efforts of his aide, Konrad Jackson, and the sponsor's staff, Christopher Clark.

[4:03:31 PM](#)

REPRESENTATIVE JOHNSON asked whether he is sure the pharmacists do not want the auditors to use extrapolation. He said it seems to him that the pharmacists will just be subject to more and more audits without extrapolation being used. He predicted that the pharmacists are not going to like this.

DR. CHRISTENSEN said, "Yes we are." He elaborated that most of the pharmacists believe that they do an incredible job scrutinizing prescriptions and do their best. The auditors lead them to believe by virtue of extrapolation that they make lots of errors; however, the pharmacists disagree and would rather be judged on what they do and not on what they might have done, which is extrapolation. He pointed out that most other states that have passed similar legislation regarding extrapolation, agree with the pharmacists, but he appreciated Representative Johnson's concerns.

REPRESENTATIVE JOHNSON reiterated that not allowing extrapolation will increase the number of audits. He characterized the tradeoff as deciding between more audits or extrapolating the fines and fees.

[4:05:11 PM](#)

TOM HODEL, Pharmacist and Owner, Soldotna Professional Pharmacy, stated he is in his 28th year of business and is celebrating the pharmacy's anniversary this week. He said he concurs with Mr. Christensen that pharmacists do not like extrapolation. He disagreed that the bill would lead to more audits. He reiterated his earlier testimony, such that his pharmacy underwent an audit in which the auditor used extrapolation. He said he did not think it was very fair so hired a lawyer and fought it. He ended up reaching a compromise. He highlighted that auditors questioned 4 of 100 claims, of which 3 were clerical errors. The audit resulted in one \$48 claim and by using extrapolation resulted in an attempt to charge them over

\$7,500. He finally settled for \$4,000, after two appeals. He said, "I certainly do not like extrapolation process."

[HB 259 was held over.]

#### **HB 266-PRACTICE OF NATUROPATHY**

[4:07:52 PM](#)

CHAIR OLSON announced that the next 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 if anyone had questions for Christopher Clark, the sponsor's staff.

[HB 266 was held over.]

#### **SB 27-FLAME RETARDANTS /CHEMICALS CLEARINGHOUSE**

[4:08:12 PM](#)

CHAIR OLSON announced that the final order of business would be CS FOR SENATE BILL NO. 27(HSS), "An Act relating to flame retardants and to the manufacture, sale, and distribution of products containing flame retardants; relating to a multistate chemicals clearinghouse; and providing for an effective date."

[4:08:36 PM](#)

SAM GOTTSTEIN, Staff, Senator Bill Wielechowski, Alaska State Legislature, stated that SB 27 would help ensure Alaskans live in safe toxic-free homes. This bill would ban polybrominated diphenyl ethers or PBDEs, which are toxic flame retardants from being manufactured, distributed or sold in the state. These toxic chemicals can be found in many household items, including mattresses, upholstered furniture, and plastic covers on electronics. He said that the negative health effects of using these chemical is well-documented. He related that a number of studies on prenatal exposure to PBDEs show decreased mental and physical development, increased thyroid problems, reproductive health problems, and an increased risk of testicular cancer. He pointed out that children are most at risk from exposure to toxic chemicals since exposure to small concentrations of these toxins at a critical stage of development can lead to permanent negative health effects.

MR. GOTTSTEIN said Alaskans are particularly vulnerable to toxic flame retardants for three reasons. First, Alaskans tend to spend more time indoors. Second, Alaskans eat a greater quantity of subsistence foods that have high concentrations of the biocumulating chemicals. Third, toxins like PBDEs are carried in the atmosphere through a process known as global distillation. He referred to a news article that came out three days ago that indicates an uncommonly high level of flame retardant chemicals are found in a very remote Arctic location, which made national news. Thus Alaskans are at an increased risk. He related that the sponsor has received numerous letters of support from pediatricians, firefighter associations, the Alaska Mental Health Trust, and Alaska Federation of Natives.

MR. GOTTSTEIN asked to make a few points, including that Representative Holmes had introduced a similar bill. He raised issues that have been raised during hearings on the bill. First, SB 27 does not compromise fire safety. The bill does not exempt products from meeting existing fire safety standards so there should be no trade off resulting in legislature being forced to decide between the lesser of two evils. This bill would keep children safe from fires and from harmful health effects from exposure to harmful chemicals. Second, this bill will not increase costs to consumers. Other states have researched this extensively. He held up an extensive study by the State of Illinois - too large for members' packets - that looked for cost effective alternatives. Illinois found that transportation issues resulted in cost issues. He referred to page 2, lines 24-25, which exempts transportation. He pointed out that cheap alternatives are available in the marketplace, especially in large markets such as European Union, Wal-Mart. He noted that 12 other states have banned these chemicals except for a couple of industries, which this bill exempts. Finally, a number of legislators have raised concerns since the Environmental Protection Agency (EPA) is working to address this issue. He offered his belief that over 90,000 chemicals are registered under the Toxic Substance Control Act, and of those only five have ever been banned by the EPA. He pointed out that lead, mercury, and asbestos are substances with negative health effects yet none have been banned.

MR. GOTTSTEIN reported that three independent chemical manufacturers have performed a voluntary phase out. He emphasized that the phase out is voluntary and puts American companies at a disadvantage since foreign chemical companies continue to use the chemicals.

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REPRESENTATIVE JOHNSON related his understanding the federal government will take care of in 2014. He recalled the issue coming up several years.

SENATOR BILL WIELECHOWSKI, Alaska State Legislature, answered that the EPA is not banning PBDEs, but is asking companies for voluntary compliance by 2014.

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MR. GOTTSTEIN related his understanding that in 2013 or 2014, the voluntary ban goes into effect on three manufacturers. He stated that SB 27 would apply to the chemical compounds for penta, octa, and deca BDEs. He offered his belief that the voluntary compliance for penta and octa, but not deca BDEs, which are also very dangerous toxic chemicals. More importantly, the EPA ban does not apply to the importation of these chemicals from outside manufacturers. Essentially, the problem exists in which the U.S. companies are doing right thing yet foreign companies are continuing to import these toxic chemicals.

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REPRESENTATIVE JOHNSON moved to adopt the proposed committee substitute (CS) for SB 27, labeled 27-LS0300\E, Bannister, 4/9/12, as the working document. [Version E was before the committee.]

CHAIR OLSON objected for purpose of discussion.

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REPRESENTATIVE HOLMES suggested the bill is similar to her prior bill on the same subject.

[4:17:47 PM](#)

KONRAD JACKSON, Staff, Representative Kurt Olson, Alaska State Legislature, stated that SB 27 is similar to a version the committee reviewed last session. He referred to page 1, line 7 of the original bill, which read, "A person may not manufacturer, sell, or distribute..." He stated that the language in the proposed substitute, (CS), for SB 27, Version E reads, "a person who is a manufacturer or a distributor may not

manufacturer, sell, or distribute a product. The intention was to not harm businesses or retailers who may have the products on the shelf. The companies have invested money in the products which will be sold and not replaced as time goes on and could be a pretty unfair burden to businesses.

CHAIR OLSON related his understanding this bill would protect Alaska businesses.

MR. JACKSON commented that Representative Holmes mentioned this bill looks a lot like a bill she had on the same topic.

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REPRESENTATIVE MILLER related his understanding that the EPA has moved to phase out the products and the businesses may have several inventory pieces on their shelves. He inquired as to whether the businesses will have any duty to disclose to consumers the PBDEs in the products.

REPRESENTATIVE HOLMES said she did not believe so. She stated that the businesses may not know their merchandise contains PBDEs, which is part of why the committee made the change to the original bill. The committee wanted to make sure SB 27 did not apply to the company, but to the manufacturer of the product.

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REPRESENTATIVE MILLER asked how the three chemicals release toxins. He further asked whether the toxins are airborne, if they leach out, or become worse if exposed to fire, heat, or water.

REPRESENTATIVE HOLMES answered yes to all three. She explained that the products are in chairs and mattresses and breakdown. She agreed they are more dangerous in smoke and can bioaccumulate and get into the fish cycle, which is why higher concentrations are found in the Yukon-Kuskokwim (Y-K) Delta. She said, "The answer is all of the above."

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REPRESENTATIVE MILLER recalled the chemicals are in furniture and mattresses to reduce the coating from burning. He asked if the chemicals are found in clothing or wall coverings.

CHAIR OLSON also asked if the chemicals are found in children's clothing.

REPRESENTATIVE HOLMES answered that the PBDEs have been found in computers, mattresses, couches, and televisions. She was not sure if the PBDEs are in clothing.

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REPRESENTATIVE JOHNSON noted changes to bill make it only apply to manufacturer and distribution. He inquired as to whether any manufacturer or distributor distributes these products in Alaska. He further asked whether Costco would be considered a distributor.

REPRESENTATIVE HOLMES referred to page 4, to the definitions of manufacturer and distributors. She stated that the changes were put in at the request of the committee and she concurs with the changes.

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REPRESENTATIVE JOHNSON read that someone may buy cribs at Wal-Mart and resell them to the hotel. He questioned whether the person would be considered a distributor. He said he did not think anyone was manufacturing in the state.

REPRESENTATIVE THOMPSON responded that the Mattress Ranch advertises that it makes its own mattresses. He pointed out that if the business affixes its brand name on a mattress, the company is considered the manufacturer.

REPRESENTATIVE JOHNSON said he understood the mattresses are manufactured in the Lower 48. He asked whether a company in Alaska is now being singled out.

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REPRESENTATIVE THOMPSON referred to page 4, line 26, which read "(A) manufacturers a product or whose brand is affixed to the product; or...."

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REPRESENTATIVE JOHNSON inquired as to whether a person buying mattresses at Mattress Ranch who then sells them to hotels would be considered a distributor. He asked whether the bill will

have accomplished anything since there seems to be all sorts of loopholes. He related a scenario in which a person buys hotdogs at Costco and sells them and the hotdogs contain PBDEs if the person would be considered a distributor. He suggested the bill may be too broad.

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EMILY BREESE, speaking on behalf of herself, stated that she has worked as a volunteer fire fighter. She has become increasingly concerned about breathing PBDEs, which were thought to keep people safe, but are actually harming us. She pointed out that PBDEs are used as flame retardants, but may promote cancer, developmental problems, and thyroid or reproductive problems. She asked the reason to continue to use these chemicals when there are safe, economical alternatives in the marketplace. She expressed concern that her family could be exposed to harmful toxins from sitting on the sofa or using the computer. She said she is especially concerned due to bioaccumulation issues since she is also an Alaskan and a firefighter. She related her understanding that some of the highest concentrations of PBDEs are found in fresh water lakes of Denali National Park and Preserve (Denali Park), close to her home. She highlighted that a large amount of PBDEs are found in Alaska. She also stated she is exposed to toxins in a higher amount when she is engaged in firefighting. Furthermore, currently consumers don't have the right to know that PBDEs are found in these products so they can't easily limit their exposure. She concluded that PBDEs need to be banned now so people can better make decisions on what is best for Alaskans well-being and health. She offered her support for SB 27.

[SB 27 was held over.]

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#### **ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:29 p.m.