

ALASKA STATE LEGISLATURE
SENATE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

February 28, 2011

1:30 p.m.

MEMBERS PRESENT

Senator Bettye Davis, Chair
Senator Dennis Egan
Senator Johnny Ellis
Senator Kevin Meyer
Senator Fred Dyson

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 27

"An Act relating to flame retardants and to the manufacture, sale, and distribution of products containing flame retardants; relating to bioaccumulative toxic chemicals; and providing for an effective date."

- MOVED CSSB 27(HSS) OUT OF COMMITTEE

SENATE BILL NO. 52

"An Act requiring health care insurers to provide coverage for treatment of mental health conditions, and requiring parity between health care insurance coverage for mental health, alcoholism, and substance abuse benefits and other medical care benefits; eliminating different treatment for mental health conditions from the minimum benefits of the state health insurance plan; removing an exclusion for mental health services or alcohol or drug abuse from the definition of 'basic health care services' in the law relating to health maintenance organizations; repealing a definition of 'mental health benefits' that excludes treatment of substance abuse or chemical dependency; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 27

SHORT TITLE: FLAME RETARDANTS AND TOXIC CHEMICALS

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

BILL: SB 52

SHORT TITLE: MENTAL HEALTH CARE INSURANCE BENEFIT

SPONSOR(s): SENATOR(s) DAVIS

01/19/11 (S) READ THE FIRST TIME - REFERRALS
01/19/11 (S) HSS, L&C, FIN
02/28/11 (S) HSS AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

KARLA HART, Staff to Senator Wielechowski
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Explained changes in CSSB 27.

SENATOR WIELECHOWSKI
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Sponsor of SB 27.

TOM OBERMEYER, Staff to Senator Davis
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Presented SB 52 for the sponsor.

DENNIS BAILEY, Attorney
Legislative Legal Services
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Answered questions regarding SB 52.

BRENDA KNAPP, Treatment and Recovery Program Administrator
Division of Behavioral Health
Department of Health and Social Services
Juneau, AK

POSITION STATEMENT: Answered questions regarding fiscal note for SB 52.

ACTION NARRATIVE

[1:30:00 PM](#)

CHAIR BETTYE DAVIS called the Senate Health and Social Services Standing Committee meeting to order at 1:30 p.m. Present at the call to order were Senators Egan, Meyer, and Chair Davis.

SB 27-FLAME RETARDANTS AND TOXIC CHEMICALS

[1:31:07 PM](#)

CHAIR DAVIS announced the first order of business would be SB 27.

SENATOR EGAN moved to adopt the proposed committee substitute to SB 27, CSSB 27(), labeled 27-LS0300\B, as the working document.

CHAIR DAVIS objected for discussion purposes.

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SENATOR BILL WIELECHOWSKI, sponsor of SB 27, thanked the committee for hearing the bill and said his staff would review the changes in the CS.

KARLA HART, staff to Senator Wielechowski, said the changes to SB 27 from version M to version B begin on page 1. The first change makes enforcement easier by clarifying that the limit of PBDE by mass applies to each individual component.

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SENATOR ELLIS joined the meeting.

MS. HART further explained that no component of any product may contain more than 0.1 percent of bromines. The second change, page 1, section (c) adds other external components to electronic appliances. This includes things like toasters, blenders, and microwaves, and ensures that anything that people have physical contact with would be free of PBDEs. On page 3, the CS removes the retailer assistance component, the review by departments, and the list of toxic chemicals. These are replaced with required participation by DEC in the interstate chemical clearinghouse. The clearinghouse is now up and running. In this way, DEC could buy a share of a toxicologist instead of a whole department, and share the knowledge of many states.

CHAIR DAVIS asked if section 18.31.660 was new.

MS. HART affirmed that it was. The new version changed "may participate" to "shall participate." The CS adds an immediate effective date for interstate clearinghouse participation. Those changes were done to clarify the bill, and also to reduce the fiscal notes.

CHAIR DAVIS asked if there was a new fiscal note.

MS. HART answered that staff at DEC was preparing a new fiscal note, but the CS has to be adopted before they will release it. The current fiscal note is roughly \$159,000. This recognizes that the toxicologist position will probably be cut. The prior note was almost \$400,000. The DSHS fiscal note should be zero, and the public safety note says zero.

SENATOR WIELECHOWSKI, sponsor of SB 27, said he doesn't believe a toxicologist is needed, so the real cost is only the cost of joining the interstate clearinghouse.

CHAIR DAVIS said this could be taken up in the Finance Committee.

SENATOR MEYER asked if the state associations of firefighters and fire chiefs have taken a position.

SENATOR WIELECHOWSKI said they have indicated verbally that they support the bill.

MS. HART stated they should be sending a letter of support, and they did support the bill last year, and indicated a willingness to pass a resolution in support this year. The State Fire Marshall gave verbal support but has some concerns, because his job is not to protect us from toxics, his job is to fight fires and protect the public from fires.

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SENATOR MEYER said it would be helpful to have something showing their support. There is one letter from a retired fire fighter opposing the bill.

MS. HART said that person has testified against the bill each year. She noted that their office has also received letters of support from active firefighters, and the Alaska Chapter of the American Fire Fighters Association is also in favor, and has written letters in past years. The State Association of Fire Chiefs has also supported the bill in past years. Possibly there is some fatigue with repeatedly passing resolutions.

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SENATOR MEYER asked how SB 27 would be enforced.

MS. HART responded that initial enforcement would be through wholesalers and distributors, not retailers. The law will be published and news will spread quickly. Many states already have these laws. Wholesalers and distributors have to disclose if there are any PBDEs in the products they sell. There is no enforcement component in the budget. Major retailers are already complying in many other states, and enforcement has not been a big issue.

SENATOR WIELECHOWSKI said his understanding is that many manufacturers are complying. Those not complying are from overseas.

CHAIR DAVIS noted the CS was adopted, and would go to Finance.

SENATOR EGAN moved to report CS for SB 27 from committee with individual recommendations and soon to be attached fiscal notes. There being no objection, CSSB 27(HSS) moved from Senate Health and Social Services Standing Committee.

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Brief at-ease from 1:44 - 1:45

SB 52-MENTAL HEALTH CARE INSURANCE BENEFIT

[1:45:29 PM](#)

CHAIR DAVIS announced the next order of business would be SB 52.

TOM OBERMEYER, Staff to Senator Davis, said that SB 52 amends several sections of Alaska's health insurance code to require that health care insurers provide full "parity," i.e., equal insurance coverage, or the same financial and treatment coverage for mental health conditions, including alcohol and substance abuse, as other physical illnesses. This bill expands on state compliance under HB 222 in 2009 with newly enacted federal parity law, the "Paul Wellstone and Peter Domenici Mental Health Parity and Addiction Equity Act" of 2008. That Act also applies to all children's health insurance programs and became effective April 1, 2009.

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MR. OBERMEYER said that historically, health insurers have been reluctant to cover mental health and substance abuse services on

the same basis as general medical and surgical services. During the 1980s many states required insurers to provide coverage for mental health services and to offer freedom of choice among providers. However, concerns about the adequacy of this coverage persisted because insurers imposed increased cost sharing or restrictive benefit limits. This led to more federal and state intervention on behalf of consumers. While current federal law does not mandate that group plans must provide mental health coverage, if they do, they must provide the same financial and treatment coverage offered for other physical illnesses. This bill differs from federal law in that it does mandate that "a health care insurer which offers, issues for delivery, delivers, or renews a health care insurance plan to an employer or individual on a group or individual basis shall provide coverage for treatment of a mental health condition."

CHAIR DAVIS asked if he could provide a sectional analysis.

MR. OBERMEYER said that Section 1 prohibits a health care insurer from placing a greater financial burden on an insured for the treatment of alcoholism or drug abuse than for other medical care, including limits on payment, deductibles, copayment, or other cost sharing requirements, methods, prenotification requirements, limiting or excluding coverage or services, or denying coverage because treatment was interrupted or not completed. It defines a "health care insurance plan" and "health care insurance."

Section 2 requires health care insurers to provide coverage for treatment of mental health conditions. It requires that health care insurance provisions are applied to the treatment of mental health conditions in the same way as those health care insurance conditions are applied to other medical care.

Section 3 is an editorial amendment. Section 4 removes limitations on mental health benefits from ACHIA high risk plans. Section 5 removes a 50 percent copayment requirement for mental health services under an ACHIA plan. Section 6 removes a provision under an ACHIA plan that requires certain expenses for the treatment of mental and nervous conditions be paid at the rate of 50 percent. Section 7 removes the exclusion for mental health services or services for alcohol or drug abuse from the definition of "basic health care services" which applies to health maintenance organizations. Section 8 changes the definition of medical care and includes mental health care and care for alcoholism and substance abuse in the definition of "medical care" for insurance purposes. Section 9 repeals the

definition of "medical and surgical benefits" applicable to health insurance, which excludes mental health benefits. It also repeals the definition of "mental health benefits," which allows the term to be defined in a health care insurance plan, and which excludes treatment of substance abuse or chemical dependency. Section 10 states that the act applies to insurance issued after the effective date of the act. Section 11 states that the act applies to insurance issued after the effective date of the act. Section 11 states an effective date.

1:55:00 PM

MR. OBERMEYER explained that SB 52 tries to recognize that mental health conditions must be defined in the DSM manual, and he asked DSHS to confirm that those disorders are defined there. From a policy standpoint, SB 52 recognizes that these conditions should be treated under health plans the same as other medical conditions. He noted that DUI wellness court clients have been found to be medically (chemically) dependent. It is only fair to treat these conditions the same as other conditions. Treating them otherwise is discriminatory.

SENATOR MEYER asked if he had any idea what this would cost small business.

MR. OBERMEYER answered that the fiscal note indicates some anticipated costs. He assumes that if law were put into effect, fewer employers might offer insurance or fewer employees might enroll. They don't have good numbers, but other states have done this. There must be some ability to justify the additional costs, because 46 states have some type of parity laws, including 28 that require full parity for mental health benefits.

CHAIR DAVIS said we don't know how much it will cost small business. But we do know that parity is possible. In the long run it may end up saving money. We should provide parity for people with mental illness simply because it's the right thing to do.

SENATOR MEYER said he did not disagree with that.

CHAIR DAVIS said there is no way of knowing the cost. Many employers who don't have to provide this coverage are already doing it.

SENATOR EGAN noted that if a small business participates already, the bill would not affect them.

MR. OBERMEYER said if a private company has a plan in effect now, the bill says they would have to have full parity. If they don't have a plan now and they elect not to have one, then they are not required to have mental health parity. This bill says you must have full parity for mental health coverage if you have a plan.

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SENATOR MEYER said the federal Mental Health Parity Addiction Act says any employer with fewer than 50 employees is exempt. SB 52 says any employer with more than 5 must participate, and he wondered why that number was chosen.

MR. OBERMEYER said he was not sure.

DENNIS BAILEY, Attorney, Legislative Legal Services, said he doesn't know where the number came from or why it is in the bill.

CHAIR DAVIS stated, "We can see we have work to do on this bill." She said she was not sure what the number should be, but the issue needs to be addressed.

SENATOR MEYER asked if substance abuse and mental health are typically lumped together.

MR. OBERMEYER said that DSHS has experts on this question, and the DSM manual defines these conditions. Alcoholism and substance abuse are now considered mental health disorders.

SENATOR MEYER asked if this bill would be able to distinguish between mental health claims and substance abuse claims.

MR. OBERMEYER said they would both be included under the same definition.

DENNIS BAILEY said that he did not have a definitive answer, but looking at information on DSM standards he thinks there are separate designations of a disorder that are alcohol related versus other disorders that are non-alcohol related. They are a sub-category of mental illness.

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CHAIR DAVIS said there was someone present from the Division of Behavioral Health.

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BRENDA KNAPP, Treatment and Recovery Program Administrator, Division of Behavioral Health (DBH), Department of Health and Social Services (DSHS) said her purpose was to answer questions on the fiscal note. DSHS submitted a zero fiscal note. The DBH recognizes the value of having insurance coverage for mental health and substance abuse issues. Looking at the impact of this parity bill with regard to a fiscal note, research did not indicate a significant cost increase or savings.

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SENATOR DYSON joined the meeting.

SENATOR MEYER asked if SB 52 would have much impact to the state, and noted that impacts would be mostly to small businesses, whether anything under 50 or over 5 employees.

MS. KNAPP answered that DSHS would not track that. They would be tracking Medicaid expenditures, reduced need for treatment paid by DSHS, increased need for treatment facilities and oversight. The bill would not impact them directly at this time.

SENATOR MEYER said you might actually see a decrease.

MS. KNAPP answered that she was not an insurance expert.

SENATOR MEYER asked if the Division of Insurance has taken a position.

MS. KNAPP answered she was not aware that they had.

CHAIR DAVIS said they usually remain neutral, but we can ask that they come forward.

SENATOR MEYER said he was referring to Linda Hall.

CHAIR DAVIS said the committee could ask her to come to the next hearing.

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SENATOR EGAN asked if a small business does not have health insurance for their employees, would this bill require them to provide insurance.

CHAIR DAVIS said if you have a plan you have to do things, but the bill is not saying you have to get a plan.

SENATOR DYSON noted on page 2, line 19, there would seem to be one factor that makes employers reluctant to have parity because a diagnosis of mental illness is more subjective. The bill says an insurer may not use or require notification or a second opinion. He stated he would enjoy knowing why a second opinion was excluded.

CHAIR DAVIS said they could list this as an area of concern. She said they would look into this area.

SENATOR DYSON asked about the meaning of fraternal benefit society as used in SB 52.

DENNIS BAILEY said that a fraternal benefit society is a group that provides benefits for its members, such as the Moose Lodge or the Elks Lodge, where they may give some insurance type benefits to their members. These are categorized separately from a normal health insurer.

SENATOR DYSON said some unions, including those representing public employees, have their own health benefit plans, and asked if they would be required to comply.

MR. BAILEY said he had some ideas on the question, but felt it should be directed to the Division of Insurance.

CHAIR DAVIS announced that SB 52 would be held in committee for further consideration.

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There being no further business to come before the committee, Chair Davis adjourned the meeting at 2:22 p.m.